

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE
3 GOVERNMENT CENTER AT PARHAM AND HUNGARY SPRING ROADS, ON
4 THURSDAY JUNE 27, 2019 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN
5 THE *RICHMOND TIMES-DISPATCH* JUNE 10, 2019 AND JUNE 17, 2019.
6

7 Members Present: Helen E. Harris, Chair
8 Gentry Bell, Vice Chair
9 Walter L. Johnson, Jr.
10 Terone B. Green
11 James W. Reid
12

13 Also Present: Jean M. Moore, Assistant Director of Planning
14 Benjamin Blankinship, Secretary
15 Paul M. Gidley, County Planner
16 R. Miguel Madrigal, County Planner
17 Kuronda Powell, Account Clerk
18
19

20 Ms. Harris - Good Morning and welcome to the June 27th meeting of the
21 Board of Zoning Appeals for Henrico County. All those who are able please stand and
22 pledge with us the pledge of allegiance.

23
24 [Recitation of the Pledge of Allegiance]
25

26 Ms. Harris - Mr. Blankinship, the acting secretary, will read the rules that
27 govern this meeting.
28

29 Mr. Blankinship - Good morning, Madam Chair, members of the board, ladies
30 and gentlemen. The rules for this meeting are as follows: Acting as secretary I will call
31 each case, and then we will ask everyone who intends to speak to that case to stand and
32 be sworn in. This meeting is being recorded so we will ask everyone who speaks to speak
33 directly into the microphone on the podium. State your name when you begin and please
34 spell your last name, so we get it correctly in the record.
35

36 For conditional use permits and variances a member of the county staff will then introduce
37 the case and give a brief report and then the applicant will present their case, and then
38 anyone else who wishes to speak will be given the opportunity to speak. And then the
39 applicant, and only the applicant, will have an opportunity for rebuttal. We have all five
40 members present today.
41

42 We do have one request for deferral and one request, or one withdrawal. The withdrawn
43 case is APL2019-00005, Spencer Moore.
44

45 **APL2019-00005** **SPENCER MOORE** appeals a decision of the director of
46 planning pursuant to Section 24-116(a) of the County Code regarding the property at

47 7356 Osborne Turnpike (RICHMOND HEIGHTS) (Parcel 802-694-3132) zoned Business
48 District (B-1) and One-Family Residence District (R-3) (Varina).

49
50 That appeal has been withdrawn, which has the result that the notice of violation will
51 remain in effect. There is a representative of the county attorney's office here this
52 morning, Mr. John Gilbody, anybody who drove all the way here in order to hear that case
53 and is now not going to have an opportunity to speak. I apologize.

54
55 We didn't receive the withdrawal until 5:08 yesterday evening, so there wasn't anything
56 we could do to short circuit that. But if you would like to discuss the case with Mr. Gilbody
57 you will have the opportunity. He has volunteered his time to come and meet with you for
58 a few minutes.

59
60 Madam Chair, the other request is for deferral, and that is VAR2019-00015, Paula Young.

61
62 **VAR2019-00015 PAULA YOUNG** requests a variance from Section 24-94 of
63 the County Code to build a screened porch on an existing deck at 9741 Pemberton
64 Crossing Drive (PEMBERTON CROSSING) (Parcel 753-756-7574) zoned General
65 Residence District (R-5AC) (Three Chopt). The rear yard setback is not met. The
66 applicant proposes 22 feet rear yard setback, where the Code requires 35 feet rear yard
67 setback. The applicant requests a variance of 13 feet rear yard setback.

68
69 Mr. Blankinship - This is the case that provided a substantial amount of
70 additional information for you late Friday. We asked the county attorney's office if they
71 could review that and give the planning department some guidance on that. They
72 contacted the applicant, said they really did not have adequate time to delve into that,
73 and the applicant has agreed to defer to July in order to give the county attorney's office
74 time to analyze that information and provide the county planning department with advice.

75
76 Ms. Harris - We will need a motion to that effect. That we would defer
77 variance 15 until the next meeting.

78
79 Mr. Green - So moved.

80
81 Mr. Johnson - Second.

82
83 Ms. Harris - It's been moved and property seconded that we will defer
84 variance 15 to the next meeting. Are there any questions on the motion? All in favor of
85 deferral say aye. Ayes have it and so ordered. On a motion by Mr. Green, seconded by
86 Mr. Johnson, the Board **deferred** the case until its July 25, 2019 public hearing.

87
88
89 Affirmative: Bell, Green, Harris, Johnson, Reid 5
90 Negative: 0
91 Absent: 0

92

93
94 Ms. Harris - We go now to the first case on the agenda.
95

96 **CUP2019-00019** **DEON A. KADO** requests a conditional use permit pursuant
97 to Sections 24-12(e) and 24-52(a) of the County Code to allow a noncommercial kennel
98 at 104 Early Meadows Court (EARLY MEADOWS) (Parcel 828-720-8541) zoned
99 Agricultural District (A-1) (Varina).
100

101 Mr. Blankinship - Would everyone who intends to speak to this case please
102 stand and be sworn in. All raise your right hands, please. Do you swear the testimony
103 you're about to give -- raise your right hand please. Do you swear the testimony you're
104 about to give is the truth, the whole truth, and nothing but the truth, so help you God?
105 Thank you. Mr. Madrigal.
106

107 Mr. Madrigal - Thank you, Mr. Secretary, Madam Chair, members of the
108 board. Good morning.
109

110 Ms. Harris - Good morning.
111

112 Mr. Madrigal - Before you is a request to allow a noncommercial kennel in
113 an A-1 district. The subject property is in the Early Meadows subdivision and consists of
114 a lot that is over 46,000 square feet in area. It is approved with a one-story, 1,056-square-
115 foot dwelling with open parking constructed in 2010. The applicants have an active
116 building permit for a 598-square-foot addition to the south side of the dwelling. The rear
117 yard is approximately 30,000 square feet in area and is surrounded by a six-foot-tall
118 wooden privacy fence.
119

120 The northwest corner of the rear yard is a dedicated 6,000-square-foot kennel area, which
121 is enclosed also by a 6-foot-tall wooden fence. It contains a large shed, open and covered
122 pens, and two large chain link kennels, each measuring 12 feet wide by 50 feet long atop
123 concrete pads.
124

125 In addition to the kennel area, the applicant has approximately 2,000 square feet of
126 makeshift pens housing goats and chickens. The owner purchased the property in 2010
127 and has been breeding Italian Mastiffs until last year when he received a notice of violation
128 from the county for the keeping of excessive animals at the property.
129

130 At one point the applicant had 16 dogs at the property, but has reduced that number to 8
131 dogs, 2 small indoor dogs and 6 mastiffs. In addition to the dogs the applicant has
132 approximately 15 chickens and 5 goats. In conjunction with this request the applicant
133 would like to construct a 14 by 50-foot accessory building between the two 12 by 50-foot
134 kennels to house the dogs. The building would match the existing dwelling and it would
135 be a conditioned space to keep the dogs comfortable during inclement weather and would
136 aid in keeping noise levels down while the applicant is at work. The property is zoned A-
137 1 and is designated Suburban Residential 1 on the 2026 Future Land Use Map. A one-
138 family dwelling is consistent with both of these designations.

139
140 With regard to the dogs the keeping of more than three pets requires the approval of a
141 CUP. Although the property is agriculturally zoned, the principal use is residential, and it
142 is part of the neighborhood. The breeding of dogs for commercial purposes is not a
143 permitted use in a residential setting unless the property can meet the distance
144 requirements outlined by code and a CUP is obtained. Because the property does not
145 meet the distance requirements for the keeping of livestock or a commercial kennel in an
146 agricultural district, it is not eligible for a use permit to allow boarding or breeding of dogs
147 or the keeping of livestock or poultry.

148
149 In 2018 the county received three separate complaints regarding the excessive number
150 of animals at the property. A notice of violation was issued in June of last year, and the
151 applicant has been working towards reducing the number of animals on the property.
152 Although the lot is agriculturally zoned, it is part of an established residential
153 neighborhood. The most impacted neighbor is to the west, and their home is
154 approximately 100 feet distant from the dog kennel and the animals. You can see here
155 the kennel area, and then this area is where the goats and chickens are kept, and then
156 this is the closest neighbor impacted.

157
158 Although there is a six-foot-tall privacy fence, the combination of animals has had
159 detrimental impacts related to noise and odors on neighboring properties. Having so
160 many animals would be more appropriate in a rural setting where parcels are larger, and
161 homes are spaced several hundred feet apart, rather than in suburban neighborhoods.

162
163 In conclusion, when applicants typically request a conditional use permit to keep more
164 than three dogs at a residence, the animals tend to be kept primarily indoors, living with
165 the residents, which helps lessen their impact on neighbors. In this case, the applicant
166 has 2 small indoor dogs and 6 large outdoor dogs, 5 goats and 15 chickens. Keeping this
167 many animals on a one-acre lot in a residential neighborhood has had negative impacts
168 on nearby property owners resulting in several complaints. The most notable issues are
169 noise, odor, and safety concerns related to keeping the animals contained on the
170 property.

171
172 Given the applicant's attempt to bring the property in compliance, staff recommends
173 approval of the request for the dogs only subject to the attached conditions of approval,
174 which include removal of the chickens and goats. That essentially concludes my
175 presentation and I'll be happy to answer any questions you may have. Yes, sir.

176
177 Mr. Green - Could you re-explain to me why when we get these cases
178 folks don't have kennel licenses, and if they had a kennel license what impact would that
179 have on all of this?

180
181 Mr. Madrigal - In order for them to get the kennel license they have to go
182 through this process. Anything more than three animals generally generates that
183 requirement, and that's the trigger, that's the flag. So then they come in for a use permit.
184 The majority of them tend to be non-commercial kennels. People just having excessive

85 number of pets. In this case this was a commercial kennel, so that's what triggered it. And
186 I couldn't tell you with respect to the licensing aspect of it.

187
188 Mr. Green - But do they then agree to go on to get a kennel license?

189
190 Mr. Madrigal - They've come in, since we looked at it, they couldn't qualify
191 for the commercial kennel and they didn't meet the distance requirements for that or for
192 the keeping of livestock. So then, essentially, we came back and fell on the non-
193 commercial kennel aspect of it.

194
195 Mr. Blankinship - I think the question was if the use permit is approved, will they
196 then go get a kennel license?

197
198 Mr. Madrigal - Oh, I'm sorry. Yes, they will.

199
200 Mr. Green - Can we make that part of the conditions?

201
202 Mr. Madrigal - Yes, we could.

203
204 Mr. Green - That they obtain a kennel license. Because a kennel license
205 would allow them to do what? Keep how many animals?

206
207 Mr. Madrigal - Well the conditions it restricts it to six dogs. And then by
208 natural attrition they'll be reduced over time.

209
210 Ms. Harris - Mr. Madrigal, in condition number four, we talk about the
211 improvements being limited to the dwelling, the proposed 700-square-foot building, one
212 12 by 50-foot chain link kennel, and one 10 by 12-foot storage building. I'm looking at the
213 map that shows the layout, you know, of the property.

214
215 Mr. Madrigal - The plot plan? Yes, ma'am.

216
217 Ms. Harris - Which of these structures would be eliminated?

218
219 Mr. Madrigal - It'll be his choice. Basically, what we're saying is he can have
220 one of the fenced-in kennel areas in addition to the new building, and then the 10 by 12
221 shed, which I believe is this one here.

222
223 Ms. Harris - So these other three would need to be eliminated according
224 to according to the conditions.

225
226 Mr. Madrigal - Yes. He'll have to remove these structures and then one of
227 these kennels.

228
229 Mr. Blankinship - Show us the photo of what those other structures look like.
230

231 Mr. Madrigal - Yes. That's the one shed. I think that's a 10 by 12 shed that
232 we're referring to.
233
234 Mr. Blankinship - That would remain.
235
236 Mr. Madrigal - Yes. One of these kennels will be removed and, let me just go
237 down. Essentially, he's got to remove this metal shed here, all of this material here, all
238 these pens. This house for goats, I guess. And I didn't have any other pictures, but
239 essentially there's a small shed over here in front of the kennel area. You know what, I
240 might have it here. Yes. So this shed here as well.
241
242 Ms. Harris - Okay, thank you. I did drive by and because of the fence I
243 couldn't see any of this while looking at the map. Okay, any questions of Mr. Madrigal
244 from board members?
245
246 Mr. Green - Quick question. How do we know once we ask him to remove
247 it that it's actually done? Who goes back out and sees that the work has actually been
248 completed?
249
250 Mr. Madrigal - There is a community maintenance case on this, so the
251 inspector for community maintenance will follow up on these conditions.
252
253 Mr. Blankinship - We also enter it into our system. Anything that's got a date,
254 particularly, we'll have one of our inspectors check as well.
255
256 Mr. Green - And have we ever had situations where you've gone back and
257 they didn't do anything?
258
259 Mr. Blankinship - Yes, sir.
260
261 Mr. Green - And it comes back before this board, or does it go --?
262
263 Mr. Blankinship - No. We just enforce at that point. We would just go straight to
264 court.
265
266 Mr. Green - Oh, good.
267
268 Ms. Harris - Other questions from board members?
269
270 Mr. Bell - Any conversation when he was talking to the applicant about
271 odor in particular?
272
273 Mr. Madrigal - Any conversation with respect to what?
274
275 Mr. Bell - Odor or noise.
276

277 Mr. Madrigal - You know, we were out there on a rainy day, and the dogs,
278 some of the kennel pens hadn't been cleaned up. I really couldn't smell anything but, you
279 know, with that many dogs that many livestock, on a hot day, especially today where it's
280 humid, the combination of odors and insects probably could be, you know, negatively
281 affect the neighbors, essentially.
282
283 Mr. Bell - Thank you.
284
285 Ms. Harris - Are there any more questions?
286
287 Mr. Johnson - What brought this to the attention of the board?
288
289 Mr. Madrigal - Complaints. The neighbors complaining.
290
291 Mr. Johnson - There are how many complaints?
292
293 Mr. Madrigal - There were three separate cases on this since 2018.
294
295 Mr. Johnson - Okay.
296
297 Mr. Green - And it is also my understanding that if you take the dogs to a
298 vet, if it triggers more than three dogs, the vet notifies us, or notifies the county, that
299 there're more than three animals. Was that one of the complaints? Did we get that trigger
300 from the vet?
301
302 Mr. Madrigal - No, sir. Not that I'm aware of.
303
304 Mr. Green - So how do we know the dogs have been property immunized
305 if a vet didn't trigger that?
306
307 Mr. Madrigal - Ask the applicant that. I defer that to the applicant.
308
309 Mr. Green - Because that's a major concern that I would have.
310
311 Ms. Harris - We will ask the applicant when they come forward. Are there
312 any other questions? Thank you, Mr. Madrigal.
313
314 Mr. Madrigal - Thank you.
315
316 Ms. Harris - We'd like the applicant to come forth now and give us your
317 name and spell your last name, please.
318
319 Mr. Kado - My name is Deon Kado, last name is K-A-D-O.
320
321 Ms. Harris - Will you speak, only you will speak? Or if you're going to
322 speak, we need to get you to identify yourself too, please.

323
324 Ms. Kado - Carly Lamb, I mean, Carly Kado, K-A-D-O.
325
326 Ms. Harris - Thank you. Okay, please let us know now what you desire.
327
328 Mr. Kado - What I desire is when we first got the house, I've been up here
329 since 2007, I brought the Cane Corsos, which is the Italian Mastiff, from Texas all the way
330 up here. One of the first questions that I did ask the county planning, that's why we bought
331 the house in the agriculture zone, was, "Is there a problem with the amount of dogs that
332 we can have?" There was, "No, there's no problem." But come to find out last year when
333 I went back to Georgia, had a notice on the door that stated that the dogs was barking,
334 too many dogs. So they were saying we had to get a kennel license.
335
336 Now we've been there since 2010 and I had more dogs then the 14 that I did have at that
337 point in time. There was no problem until then. I built the privacy fence because I knew
338 my neighbors behind me were scared of dogs, so I just put up a privacy fence and I
339 gradually built the whole privacy fence around the whole house.
340
341 I have them in two separate pens just in case, because I know what kind of dogs they
342 are. I enclosed them in a chain link fence, a magnum kennel, so they couldn't get out. I
343 put chains on the gate just to make sure they don't get out. Now at first it was a problem
344 with me, because I asked these questions before we bought the house. And then all the
345 sudden it's like, "Okay, you got to get rid of all your dogs." Now I had nine dogs when I
346 moved over there, and those are the questions that we asked so we probably wouldn't
347 even have bought the house if we knew it was going to be a problem.
348
349 I didn't know about the 450 feet from a residential, which is Hanover Road. I didn't know
350 about the goats and chickens. I didn't know nothing about that. So we eat chickens, and
351 fresh eggs every day, so now it's a problem for me, because of what I've already
352 established. We've just added another addition to our house, and now it's to the point
353 where possibly we may even sell the house. Because of the information that was given
354 to us from the very beginning it wasn't clearly, and nobody brought out the regulations
355 that should have been brought out.
356
357 So now I'm caught in between is where I gave my brother some dogs, I got rid of four
358 more dogs, and now I'm down to six plus our two housedogs. So, I mean, it's just a point
359 I just want to have another enclosure just for the ones that I have, because they're older
360 dogs, can't get rid of them. It'll be to the point where they will have to be put to sleep
361 because Cane Corso, is Italian Mastiff, is also a guard dog. So all they know is us, the
362 family, so I mean, that would be it. That would be the resolution of getting rid of all the
363 dogs.
364
365 Ms. Harris - Mr. Kado, how do you address the noise and the barking
366 complaints?
367

368 Mr. Kado - Usually what I'll do, if they bark too much, I'll put the bark
369 collars on them. Now if the kids are back there playing basketball and they hitting the ball
370 against the gate and stuff like that, yeah of course they are going to bark. When they don't
371 come out, nobody comes out, and they just see me and then there's all of the sudden a
372 different noise, they guard dogs, so they're going to alert you if somebody's out there
373 that's not supposed to be out there. And they do it all the time. Even when the county
374 planning -- they barked a little bit, but they didn't bark consistently. So I know the different
375 barks when somebody's out there and not supposed to be out there.

376
377 Never had a problem with people breaking in over at my house. Usually I'll go look around
378 and see if anybody's around the area. And that actually stopped the trailer-park traffic that
379 was coming through, walking through, before I moved over there. So pretty much
380 everybody that was around me, they didn't have a problem with thieves, because they
381 knew I had the big dogs in the back.

382
383 Ms. Harris - And the odor complaints?

384
385 Mr. Kado - The odor complaints, I would say it probably is a small odor,
386 but I clean up every day. Every day I clean up. So I bag it up, I take it to the dump, I do
387 all this every day, 365 days a year. So, I mean, it could be. I always spray back there. I
388 cut the grass. I mean, it probably is, but it's not a lot. I bleach. I mean, everything I do I
389 clean up every day, so it's not piles of dog feces and urine. I mean, I clean up every day.
390 Anybody that knows me, that they've been over to the house, and even if I didn't clean
391 up it's probably where they just used the bathroom.

392
393 Ms. Harris - Have you seen the conditions -- did you have a copy of the
394 report? You need to look at the conditions to see just what the county is recommending
395 to see if you agree with those conditions should we --

396
397 Mr. Kado - The ones that the planning just went over?

398
399 Mr. Blankinship - Yes.

400
401 Mr. Kado - All right. The one structure which is the building that I put the
402 tie-wrap but the goats ate that off. I have to replace that. Now that's the only building that
403 I would want to keep, and that's because we have too much stuff in the house, so I have
404 to put it somewhere. And the two small sheds is not enough room to accommodate that.
405 That's the only two. But the other two, the metal shed and all that, those fences, that can
406 come down. I can take that down. I have no problem with that.

407
408 Ms. Harris - Okay. I'm talking specifically about condition number three
409 where you have to remove all goats and chickens from the property by August the 12th.

410
411 Mr. Kado - Yes, I can do that.

412
413 Ms. Harris - Can you agree with that?

414
415 Mr. Kado - Yes.
416
417 Ms. Harris - And there may be other questions, too, but let me just do a
418 little disclaimer here. My daughter and her husband and family had two. We call them
419 Cana Casa dogs. And a male and a female. And we did a lot of research on them so we
420 know they can be very loving. But at the same time they were used to guard castles and
421 we know that they have that nature. But, and of course, I made friends with them when I
422 went to South Carolina.
423
424 Nevertheless, they had to give them away, so they don't have to put them to sleep when
425 you get rid of them. You don't have to end their lives. You can actually give them away
426 and they actually gave them away to loving, you know, owners. But, anyway, other
427 questions for board members? Mr. Bell?
428
429 Mr. Bell - Has any neighbors talked to you about the dogs or chickens
430 or goats?
431
432 Mr. Kado - No.
433
434 Mr. Bell - Thank you.
435
436 Ms. Harris - Mr. Johnson.
437
438 Mr. Johnson - Did the county tell you, when you went to the county about
439 your dogs, did you tell them how many you had at the time?
440
441 Mr. Kado - Yes. Because every time you go to the vet, they give you a
442 rabies certificate and the other stuff, and they'll send that off to wherever it goes and they
443 say, "Well, you got to pay the county bill." But every time I go up there, I can't get the
444 kennel license because, well, for as far as for the certificate, the registration of the dogs,
445 because it's over three. And every time I tried to get it, it was, "No, you can't get it." So
446 that was the only thing that was said. So, and they just said, "You're in the Agriculture
447 zone." But the problem that I had was even though that I'm on an agricultural zone,
448 nobody made me aware of the 450 feet, the 250 feet. None of that was discussed when
449 we bought the house.
450
451 Mr. Johnson - So when they told you about the three dogs you wasn't taking
452 in consideration that they were saying that you can only have three dogs or three pets?
453
454 Mr. Kado - Well three dogs that you can legally, I guess, register through
455 the county. But by you having more you have to get the kennel license. Now that was in
456 between the areas of, okay, you on the agriculture zone so you don't need it. So that's
457 where I had the problem, was saying that, "Okay, this is an agriculture zone, but it's also
458 a residential." See, that's the part that I didn't know.
459

60 Mr. Johnson - Yes. And also would you -- in the conditions we just
461 mentioned, one through six, are you willing to adhere to all those regulations?
462
463 Mr. Kado - Yes. As far as the buildings, the chickens and the goats, yes.
464
465 Mr. Johnson - And the goats, are you getting rid of those as well, and the
466 chickens, especially in a residential area.
467
468 Mr. Kado - Yes.
469
470 Mr. Johnson - Okay.
471
472 Ms. Harris - Okay. Are there other questions, Mr. Green.
473
474 Mr. Green - So all of your dogs have gone to the vet and have had their
475 proper vaccinations.
476
477 Mr. Kado - Yes, they have.
478
479 Mr. Green - And how many now?
480
481 Mr. Kado - I have six.
482
483 Mr. Green - Six.
484
485 Mr. Kado - Six outside and two inside.
486
487 Mr. Green - So eight all together.
488
489 Mr. Kado - Eight all together.
490
491 Mr. Green - So for some reason the vet did not trigger the more than three.
492
493 Mr. Blankinship - I don't know how that would have happened over the years.
494 He did say that he's been told that repeatedly over the years at the vet.
495
496 Mr. Kado - Yeah. I've been doing this since -- I've been doing breeding
497 since 2007, and I've had up to, I want to say, 20-some dogs at the house, and maybe 30
498 puppies at one time. People come buy them, and then the older dogs, some of them, I
499 send off to get trained, and I'll send them off to somebody else. I send them all over, you
500 know, the world. So --
501
502 Mr. Blankinship - So when you go to the vet they tell you "We can vaccinate
503 them, but we can't give you the certificate?"
504

505 Mr. Kado - Oh, no. They give me the certificate. They give me the rabies
506 certificate. They give me everything.
507
508 Mr. Blankinship - And then they tell you, you have to go to the county?
509
510 Mr. Kado - No. They send everything in for you.
511
512 Mr. Blankinship - I thought you said a minute ago that every time you went you
513 were told you would only do three dogs.
514
515 Mr. Kado - That's when you go to the county, but as far as the vet is
516 concerned, they'll send it, their information, from the rabies vaccination to the county.
517 Then the county would in turn, send, I guess, a paper that comes in the mail.
518
519 Mr. Blankinship - Okay. The county did contact you and let you know that this
520 was a problem.
521
522 Mr. Kado - Well, they never said it was a problem.
523
524 Mr. Blankinship - Well that there was additional paperwork you --
525
526 Mr. Kado - Yeah. They just say, "Well, its additional dogs." Yes.
527
528 Mr. Blankinship - I don't suppose you know who you spoke to in 2007.
529
530 Mr. Kado - No, I don't. It was -- I go to the one in, on --
531
532 Mr. Blankinship - On Nine Mile, okay.
533
534 Mr. Kado - That's the one I usually go to.
535
536 Ms. Harris - Mr. Kado, you said something about breeding dogs, but if we
537 choose to approve this case, condition two says that you shall not breed or board any
538 dogs on the property. And, of course, you can't add any new or replacement dogs either.
539 You just let them be naturally reduced to the, you know, requirement by the county. But
540 you understand that you cannot breed.
541
542 Mr. Kado - Okay. I'd agree to that. Because I also wrote a statement on
543 there. I agree to it.
544
545 Ms. Harris - You agree to that?
546
547 Mr. Kado - Yes, ma'am.
548
549 Ms. Harris - Okay. Other questions?
550

51 Mr. Johnson - So that'll be the eight dogs that you have that you would just
52 maintain them and not add any more.
553
554 Mr. Kado - Yes.
555
556 Mr. Johnson - And by natural attrition. When they pass away then you'd go
557 down to three.
558
559 Mr. Kado - Yes, okay.
560
561 Ms. Harris - The two small dogs are kept in the house, right?
562
563 Mr. Kado - Yes.
564
565 Ms. Harris - Okay.
566
567 Mr. Green - And none of the dogs are pregnant.
568
569 Mr. Kado - Oh, no. No, no.
570
571 Ms. Harris - We didn't ask you that question. How many males or female
572 dogs did you have?
573
574 Mr. Kado - I have three and three, three males, three females.
575
576 Ms. Harris - Going to be interesting to see if they might breed. Okay, that's
577 going to be interesting. Any other questions from board members? We do thank you for
578 coming in.
579
580 Mr. Kado - Thank you.
581
582 Ms. Harris - Is there anyone who is in favor of this petition? Would you
583 come forth please and give us your name and tell us what it is that you support. And we
584 do ask that you not repeat anything that has already been said.
585
586 Mr. White - Good morning.
587
588 Ms. Harris - Morning.
589
590 Mr. White - My name is Avon, just like the Avon product. Last name White,
591 W-H-I-T-E.
592
593 Ms. Dickson - My name is Evelyn Dixon, D-I-X-O-N.
594
595 Ms. Harris - Okay, Mr. White, you are in support of this application?
596

597 Mr. White - Yes.
598
599 Ms. Harris - Okay.
600
601 Mr. White - I'm his neighbor. I would think to the west, the next, very next,
602 lot. His privacy fence adjoins my property. I was there when he moved in, so that's been
603 a while. And I have not, you know, seen any reason, nor had any, you know, excessive
604 barking or anything of that nature and until I saw the notice I was, you know, I was
605 surprised at it. You know, so that's why I'm here today to say, we're his neighbor, let's
606 see --
607
608 Ms. Harris - What is your address?
609
610 Mr. White - Oh, 100 Early Meadows. I guess I'm --
611
612 Mr. Blankinship - Just to the south.
613
614 Mr. White - Yes, right.
615
616 Ms. Harris - Okay. Thank you. Ms. Dixon? Can you go to the mic so we
617 can hear you, please?
618
619 Ms. Dixon - I am 167 Hanover Road. The privacy fence that he's talking
620 about that's in his rear yard and my half of the fence we put up and he put up half of the
621 fence. I'm one of the ones that was complaining about the smell.
622
623 Ms. Harris - Okay, excuse me. We are dealing now with people who
624 support.
625
626 Mr. Johnson - Support yeah.
627
628 Ms. Dixon - Oh, okay.
629
630 Mr. Blankinship - Stay there a moment. If there's no one else, then you'll be
631 next.
632
633 Ms. Harris - Is there anyone else who supports this application? Okay.
634 Then those who opposed. That's you Ms, Dixon.
635
636 Ms. Dixon - Sorry.
637
638 Ms. Harris - That's okay.
639
640 Ms. Dixon - Okay. And the fence that we have up, half his and half mine,
641 is -- those dogs, he say he got six now, I don't know, but they have gnawed through the

642 fence. Once they came through those holes and came over in my yard and now the fence
643 has got a brick, I put a brick on my side.

644
645 My problem was the smell. And the smell this year, I say, is better, but for the last four or
646 five years I could not even go on my back porch because of the smell. But since the
647 complaint been in I think he has been cleaning. And my other thing is you say you have
648 six dogs and how many other animals with these dogs?

649
650 Mr. Blankinship - All the others are being removed. Six outdoor dogs and two
651 indoor dogs, so a total of eight dogs, but all the chickens and goats will be removed.

652
653 Ms. Dixon - Oh they are going to be gone, okay.

654
655 Ms. Harris - By August the 12th.

656
657 Ms. Dixon - And that's basically it, it just the smell. The smell was terrible.
658 Thank you.

659
660 Ms. Harris - Question Ms. Dixon.

661
662 Mr. Bell - Question. You said the odor has been better. If he continues
663 to work like it is right now would you have any problem with it?

664
665 Ms. Dixon - I have no problem if he keeps the scent down.

666
667 Mr. Bell - Thank you.

668
669 Mr. Johnson - Also which location are you to his house?

670
671 Ms. Dixon - I'm 167 Hanover, so I'm kind of like in --

672
673 Mr. Johnson - Right there?

674
675 Ms. Dixon - His back yard and my back yard runs together.

676
677 Mr. Blankinship - Yes, immediately west.

678
679 Ms. Harris - So we can see it on the map. See it on the map on the screen?

680
681 Mr. Johnson - Yes. I rode out there looking at the facility and looking at what
682 he had out there and all the houses you have in the back, but I was just kind of concerned
683 about what you was referring to about the --

684
685 Ms. Dixon - And goats. And one time, I don't know how they knocked off
686 the boards, but he got -- he did put them back up. But those kind of things kind of, you
687 know, scared me if I come out there and there is this dog in my yard by my car. And they

688 don't -- they don't move. They don't -- just sit and stare at you. So I had to call my neighbor
689 next door, Mr. Parker, to go see if he could find him to get the dogs back in his yard.

690
691 Ms. Harris - Are there other questions?

692
693 Ms. Dixon - Thank you.

694
695 Ms. Harris - Are there other questions? Okay, do you wish to re-address
696 any of the concerns, Mr. Kado, that Ms. Dixon expressed? We do allow you to rebut if
697 there anything that Ms. Dixon brought out that you would like to address?

698
699 Mr. Kado - Well, the only thing I can say is, as far as the smell, I always
700 clean up. So it can be a day that I might have went -- I drive trucks. That's my job that I
701 do every day. So a lot of times I may be gone one or two days, but naturally I clean up
702 every day. Anybody that knows me knows that I clean up. As far as the concerns with the
703 fence, now the fence was broke down by the tree in the yard. So it's a big tree that's right
704 there and I cut down the tree that fell over in my yard. I put up the fence, but I can't do it
705 all at one time. You know, it's just me mainly. It's my dogs on that side, my animals on
706 that side, so why fix it when it breaks? And that's pretty much it.

707
708 Ms. Harris - Okay, so they can't get over to her property?

709
710 Mr. Kado - No. No.

711
712 Ms. Harris - Are there other questions? Thank you for coming in.

713
714 Mr. Johnson - That's good.

715
716 Ms. Harris - That concludes this case. Mr. Blankinship, are we ready to
717 vote on this particular case? The rules have changed a bit. Once we were wanting until
718 all applications were considered. Now we'll vote after each one. Okay, so what is the
719 pleasure of the board?

720
721 Mr. Johnson - I move that we approve the conditional use permit subject to
722 conditions recommended by the staff. Mr. Kado has removed several dogs and has
723 agreed to move the goats, chickens, and other animals. He has also agreed to remove
724 all of the structure except the proposed buildings and one of the storage buildings. Once
725 he had complied with these conditions, I don't think that the dogs would have any
726 detrimental impact to the neighborhood. That's keeping those eight dogs and with attrition
727 until they get down to three.

728
729 Ms. Harris - Okay. Mr. Green, do you have something else you wanted
730 him to do with the dogs? I thought you mentioned --

731
732 Mr. Blankinship - He asked.

733

734 Ms. Harris - Okay, so we did resolve that. Okay. Is there a second to this
735 motion?

736

737 Mr. Bell - Second.

738

739 Ms. Harris - So it's been moved and property seconded that we would
740 approve this conditional use permit number 19. Any discussion on the motion. All in favor
741 of approval say aye. Those opposed say no. The ayes have it and the conditional use
742 permit has been approved.

743

744 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Bell,
745 the Board approved application **CUP2019-00019 DEON A. KADO's** request for a
746 conditional use permit pursuant to Sections 24-12(e) and 24-52(a) of the County Code to
747 allow a noncommercial kennel at 104 Early Meadows Court (EARLY MEADOWS) (Parcel
748 828-720-8541) zoned Agricultural District (A-1) (Varina). The Board approved this
749 request subject to the following conditions:

750

751 1. This conditional use permit applies only to the keeping of eight dogs on the property:
752 two small indoor dogs and six large outdoor dogs. All other applicable regulations of the
753 County Code shall remain in force.

754

755 2. The applicant shall not breed or board any dogs on the property. No new or
756 replacement dogs shall be added, and the number of dogs shall be reduced by natural
757 attrition to no more than three at which point this conditional use permit shall expire.

758

759 3. The applicant shall remove all goats and chickens from the property by August 12,
760 2019.

761

762 4. The improvements on the property shall be limited to the dwelling, the proposed 700-
763 square-foot building, one 12-by-50-foot chain-link kennel, and one 10-by-12-foot storage
764 building. All other storage buildings, sheds, pens, kennels, and shall be removed from the
765 property by August 12, 2019.

766

767 5. Prior to the issuance of a building permit for the 700-square-foot kennel building, the
768 applicant shall obtain approval of a final building inspection for the 598-square-foot
769 addition to the home (BLD2017-00854).

770

771 6. The applicant shall maintain the property so that noise and odors are controlled.

772

773

774 Affirmative: Bell, Green, Harris, Johnson, Reid 5

775 Negative: 0

776 Absent: 0

777

778
779

Ms. Harris - We'll go on to the next case. Okay.

780
781 **CUP2019-00020** **WEST END ASSEMBLY OF GOD** requests a conditional use
782 permit pursuant to Section 24-116(d)(1) of the County Code to allow a tent at 401 N
783 Parham Road (Parcel 753-736-0655) zoned One-Family Residence District (R-1)
784 (Tuckahoe).

785
786 Mr. Blankinship - Would everyone who intends to speak to this case please
787 stand and be sworn in. Raise your right hand please. Do you swear the testimony you're
788 about to give is the truth, the whole truth, and nothing but the truth, so help you God?
789 Thanks. Mr. Madrigal.

790
791 Mr. Madrigal - Thank you Mr. Secretary, Madam Chair, members of the
792 board. Before you is a request to allow a temporary tent at a place of worship. West End
793 Assembly of God produces two major theatrical performances each year to celebrate
794 Easter and Christmas. And since 2005 the preparations for these productions have
795 included the installation of a 900-square-foot tent to store set pieces and equipment.
796 While in place, the tent resides at the rear of the church, adjacent to loading and unloading
797 area, temporarily displacing approximately four parking stalls. The size of the tent, it's
798 displacement of parking and duration, trigger the need for a CUP.

799
800 This request was last approved by the board in November 2017, which authorized the
801 use of the tent on four occasions over a two-year span. Also, in their last application, the
802 applicant requested permission to install lighting within the tent and having, again,
803 included this request for the board's consideration. The current request is to allow the
804 temporary tent with internal lighting for the Christmas 2019, Easter 2020, Christmas 2020
805 and Easter 2021 performances.

806
807 The site is zoned R-1 and is designated as a semi-public on the 2026 Future Land Use
808 Map. A place of worship is a principal permitted use in an R-1 district. Because the
809 proposed tent aids in fulfilling the churches mission it is considered an accessory use. As
810 such, the proposed temporary use is consistent with the existing church use, the zoning
811 ordinance, and the comprehensive plan. Because of the tent's placement behind the
812 church, its minimal impact on parking and circulation, its limited visibility to adjacent
813 neighbors and its temporary nature, staff does not anticipate any lasting detrimental
814 impacts to adjacent or nearby property. Staff has developed specific conditions of
815 approval to help mitigate the light glare and overall impacts.

816
817 In conclusion, the proposed tent is consistent with both the zoning and comprehensive
818 plan designations of the property. Because of the tent's placement behind the church it
819 will not be visible from a public right of way and should not significantly impede on site
820 parking or traffic circulation. No lasting and substantial detrimental impacts to adjacent or
821 nearby properties are anticipated. Also, staff is not aware of any significant complaints
822 regarding the tent from previous years.

823
824 Based on these facts staff recommends approval subject to the conditions, and that
825 concludes my presentation. I'll be happy to answer your questions.

826 Ms. Harris - Okay. Do we have any questions from board members?
827 Thank you so very much.
828
829
830 Mr. Madrigal - Thank you.
831
832 Ms. Harris - Need the applicant to come forth now and give us your name,
833 spelling your last name, and state your case.
834
835 Mr. Bragg - Good morning.
836
837 Ms. Harris - Good morning.
838
839 Mr. Bragg - I'm Pat Bragg, B-R-A-G-G. I'm a director at West End
840 Assembly of God Church and, as was stated, the tent is there during our theatrical
841 productions, and we use that to store set pieces and to move them in and out during the
842 production. And the lighting was requested last year so that we can have a bit of lighting
843 during the evening hours. By 11:00 its always off. Usually even before that.
844
845 And the picture that you see there, we have sides that go all the way around and those
846 sides would be completely closed during the production in any evening. It would be open
847 when we want to get things in and out at a large scale during the day sometime, but the
848 sides would be up and closed whenever the evening hours with lighting would take place.
849
850 Ms. Harris - We'll use the same location that we've used before, that
851 you've used before, right?
852
853 Mr. Bragg - Yes, ma'am.
854
855 Ms. Harris - Are you concerned with security? Have you had any problems
856 with security of equipment?
857
858 Mr. Bragg - We haven't had any problems. We don't really keep anything
859 of great value, and often they're large pieces that for somebody to empty it would take
860 half a semi-truck to do it. So we really haven't had a problem with that.
861
862 Ms. Harris - Are there any questions from board members?
863
864 Mr. Bell - Is it going to be constructed the same way this year as last
865 year?
866
867 Mr. Bragg - Yes, sir.
868
869 Mr. Bell - Thank you.

871 Mr. Reid - Mr. Bragg, I know your productions have been extremely well
872 received over the years, both at Christmas and at Easter. Are you in agreement with the
873 terms and conditions in the staff report? Have you seen those?

874
875 Mr. Bragg - Yes, sir.

876
877 Mr. Reid - Good.

878
879 Ms. Harris - Are there other questions? Thank you for coming in again.
880 Mr. Johnson? Just one moment, Mr. Bragg.

881
882 Mr. Johnson - I've been to some of the events over there during the past, but
883 I think that's a positive.

884
885 Mr. Bragg - Thank you

886
887 Ms. Harris - Thank you for coming in. Is there anyone who is in favor of
888 this request? Anyone opposed to this request? That concludes this case and we're ready
889 to vote. What is the pleasure of the board?

890
891 Mr. Reid - I move that we approve CUP2019-00020 subject to the
892 conditions recommended by the staff. The tent has been used for many years for these
893 productions and is only in place for a few months each year when they do their Christmas
894 play and their Easter production. And it's stuck behind the building, does not block any
895 parking spaces for the loading dock. I don't think the tent will have any detrimental impact
896 on the neighbors.

897
898 Mr. Green Second.

899
900 Ms. Harris - Okay. It's been moved and properly seconded that we
901 approve this conditional use permit. Is there any question or any particular discussion on
902 this motion? I think they did say it blocked four parking spaces.

903
904 Mr. Bragg - Four.

905
906 Ms. Harris - Yes. Any further discussion on this motion? All in favor of
907 approving this conditional use permit say aye. Those opposed say no. Ayes have it and
908 it's been approved.

909
910 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr.
911 Green, the Board approved application **CUP2019-00020 WEST END ASSEMBLY OF**
912 **GOD's** request for a conditional use permit pursuant to Section 24-116(d)(1) of the
913 County Code to allow a tent at 401 N Parham Road (Parcel 753-736-0655) zoned One-
914 Family Residence District (R-1) (Tuckahoe). The Board approved this request subject to
915 the following conditions:

916

- 917 1. One 900-square-foot tent, as shown on the site map filed with the application, may be
 918 installed pursuant to this approval. Any additional improvements shall comply with the
 919 applicable regulations of the County Code. Any substantial changes or additions to the
 920 design or location of the improvements shall require a new conditional use permit.
 921
 922 2. The tent shall be installed no earlier, and removed no later, than the following dates:
 923 October 1, 2019 to January 31, 2020; March 12, 2020 to April 20, 2020; October 1, 2020
 924 to January 31, 2021; and March 4, 2021 to April 11, 2021.
 925
 926 3. The applicant shall obtain all necessary building permits prior to the installation of the
 927 tent on the property.
 928
 929 4. The only exterior lighting authorized by this approval shall be inside the tent. Any
 930 lighting inside the tent shall be turn off no later than 11:00 pm.
 931
 932 5. The tent opening shall be oriented southwest (towards the building) to avoid light glare
 933 onto adjacent homes.
 934
 935 6. Fire lanes shall be marked and maintained in accordance with the Fire Prevention
 936 Code.

937
 938
 939 Affirmative: Bell, Green, Harris, Johnson, Reid 5
 940 Negative: 0
 941 Absent: 0
 942

943
 944 Mr. Green - Madam Chairman.
 945

946 Ms. Harris - Yes, sir.
 947

948 Mr. Green - Just a point of clarification, could you reinforce to the
 949 applicants that once we hear the cases and we vote on them they don't have to stay. I
 950 think before they would stay to the conclusion, but I think we need to keep reinforcing that
 951 y'all don't have to stay for the duration of the case. Once your case is heard you can go.
 952

953 Ms. Harris - Right.
 954

955 Mr. Blankinship - Well you're welcome.
 956

957 Mr. Green - Well you are. (indiscernible)
 958

959 Ms. Harris - Stay as long as you like. Okay, the next case.
 960

961 **CUP2019-00021** **BRAXTON PRUITT** requests a conditional use permit
 962 pursuant to Section 24-95(i)(4) of the County Code to allow a garage to remain in the side

963 yard at 7204 Beechwood Drive (LINDSAY PLACE) (Parcels 758-737-4696 and 758-737-
964 5088) zoned One-Family Residence District (R-3) (Tuckahoe).

965
966 Mr. Blankinship - Would everyone who intends to speak to this case please
967 stand and be sworn in. Raise your right hand, please. Do you swear the testimony you're
968 about to give is the truth, the whole truth, and nothing but the truth, so help you God?
969 Thank you.

970
971 Mr. Madrigal - All right. Thank you, Mr. Secretary, Madam Chair, members
972 of the board. Before you is a request to allow a garage to remain in the side yard of a
973 one-family dwelling. Lindsay Place Subdivision was recorded in 1949 and the subject
974 property was built in 1950. In 1957 the property was sold, and at that time it was described
975 as one parcel encompassing both lot 1 and the adjacent parcel of land. That same year
976 the owner built the subject garage in the side-yard.

977
978 The applicant acquired the subject property in 2012. He intends to build an addition to the
979 side of the house and make other improvements. To facilitate approval of his building
980 permit he has applied for a CUP to allow the garage to remain in the side yard. The
981 property is zoned R-3 and is designated Suburban Residential on the 2026 Future Land
982 Use Map. A garage is a customary and incidental accessory use to a one-family dwelling.
983 The property to the northwest of the garage is in the floodplain, so it is unlikely that
984 Beechwood Drive will ever be extended or that dwellings will ever be built on that property.

985
986 Because of the pattern of the surrounding development, the location of the existing
987 garage is consistent with the purpose and intent of the zoning regulations. The garage
988 has been in its current location for 62 years. The homes closest to the garage at 508 West
989 Drive Circle and 817 Lindsay Court face away from the subject lot. Staff is not aware of
990 any detrimental impacts that would be caused by allowing the garage to remain in place.

991
992 In conclusion, the garage has been in place since 1957. Although it is in the side yard it
993 is at the end of a row of houses that will not be extended further due to the presence of
994 floodplain. Staff is not aware of any detrimental impacts associated with the applicant's
995 request. As such, staff recommends approval subject to conditions. That concludes my
996 presentation. I'll be happy to answer your questions. Actually, try to. This is Ben's case.

997
998 Ms. Harris - You know on the application they ask a question, "Will this be
999 visible from neighboring properties?" It definitely is. They said no, but it is definitely. I
1000 stood at the intersection and I could see it, so --

1001
1002 Mr. Madrigal - It's right there.

1003
1004 Ms. Harris - Just wanted to clarify that. If the applicant had agreed to
1005 attach the addition to the garage, would there have been a need for conditional use
1006 permit?

1007

08 Mr. Madrigal - Probably not. It looks like it appears to be meeting the same
1009 setback requirements as the house. Although that is a pretty substantial distance. And
1010 then there's also a grade change issue there as well. So, you know, it's doable, but it
1011 would be difficult.
1012

1013 Ms. Harris - Do we have the plans for the addition?
1014

1015 Mr. Blankinship - No. I don't believe they've been submitted. They weren't really
1016 relevant to the request.
1017

1018 Ms. Harris - Right. I was thinking that if they did have an addition that
1019 would put it close enough to attach the garage then they would not need to be here.
1020

1021 Mr. Madrigal - That's correct.
1022

1023 Ms. Harris - Are there other questions of Mr. Madrigal? Other questions?
1024 Thank you.
1025

1026 Mr. Madrigal - Thank you.
1027

1028 Ms. Harris - Okay. We need the applicant to come forth now and state your
1029 case.

30

1031 Mr. Pruitt - Good morning. My name is Braxton Pruitt, P-R-U-I-T-T,
1032 asking for a CUP for my garage to remain in my side yard. It's been there for a long time
1033 and I don't have any plans on connecting the house to the garage, but we would like to
1034 bump out on the side of the house towards the garage, and just wanted to make sure
1035 when we go to apply for permits, building permits, we don't have any issues with Planning.
1036 So just trying to get in front of things and clear this up before we get there. And we don't
1037 have any conceptual plans or anything at this point. Just trying to clear some stuff up
1038 before we get to that point.
1039

1040 Ms. Harris - Okay. What do you plan to build? What rooms are you going
1041 to add?
1042

1043 Mr. Pruitt - That's what we're looking into now with pricing and things of
1044 that nature. Maybe a bathroom, another bedroom. It's a small rancher.
1045

1046 Ms. Harris - Okay, thank you. Are there questions for Mr. Pruitt? Yes, Mr.
1047 Bell.
1048

1049 Mr. Bell - Just out of curiosity, what's the width and length of that garage
1050 that's already there?
1051

052 Mr. Pruitt - Let's see here. It's a, you know, standard two-car garage.
053 Let's see what's on here. 24 by 26, 24 by 26.

1054
1055 Ms. Harris - Other questions? Have you read the conditions?
1056
1057 Mr. Pruitt - Yes, ma'am.
1058
1059 Ms. Harris - Okay, and you are in agreement with those?
1060
1061 Mr. Pruitt - Yes, ma'am.
1062
1063 Ms. Harris - I think there's only one condition.
1064
1065 Mr. Blankinship - There's only one, pretty straightforward.
1066
1067 Ms. Harris - Other questions? Thank you.
1068
1069 Mr. Blankinship - Thank you. Is there anyone who supports this application?
1070 Need you to come forward. Please come forth if you support it. Give us your name,
1071 spelling your last name.
1072
1073 Mr. Robertson - My name is John Robertson, R-O-B-E-R-T-S-O-N. I live at
1074 821 Lindsay Court, which is the property immediately to the west. And I would just like to
1075 say that I do support his application. You really, other than the pictures you showed up
1076 there, you can't see that garage from anywhere else. I developed the property around to
1077 the west, developed Carrington Court, and that's a wetlands down there that we -- in that
1078 area and RPA to the west of there. And we, as we developed behind the old house, we
1079 made sure that nobody else could have access to it or destroy the view. It's a 200-year-
1080 old farmhouse. Used to have 400 acres out there, so this does not impact that, and I
1081 would fully support his application to leave that there. We bought the property 20 years
1082 ago, 25 years ago, and that garage was there. And to my knowledge there's never been
1083 an objection from anyone.
1084
1085 Ms. Harris - Are there questions of Mr. Robertson? Thank you for coming
1086 in. Is there anyone who opposes this application? If not, that concludes the case. We're
1087 prepared to vote. What is the pleasure of the board?
1088
1089 Mr. Reid - I move that we approve conditional use permit 2019-21
1090 subject to the one condition recommended by the staff. The garage has been in the same
1091 location since 1957, has never caused any problems that we know of. And Mr. Pruitt
1092 wants to make improvements to his property which we encourage in the floodplain limits
1093 where he can build. The garage has never had an impact on the neighbors in the past
1094 and I do not think it will in the future.
1095
1096 Ms. Harris - Is there a second to this motion?
1097
1098 Mr. Bell - Seconded.
1099

00 Ms. Harris - Been moved and properly seconded that we approve
1101 conditional use permit 21. Is there any question on the motion? All in favor of approval
1102 say aye. Opposed say no. Ayes have it and it's been approved.
1103

1104 After an advertised public hearing and on a motion by Mr. Reid, seconded by Mr. Bell, the
1105 Board approved application **CUP2019-00021 BRAXTON PRUITT's** request for a
1106 conditional use permit pursuant to Section 24-95(i)(4) of the County Code to allow a
1107 garage to remain in the side yard at 7204 Beechwood Drive (LINDSAY PLACE) (Parcels
1108 758-737-4696 and 758-737-5088) zoned One-Family Residence District (R-3)
1109 (Tuckahoe). The Board approved this request subject to the following condition:
1110

1111 1. This conditional use permit only allows the existing garage to remain in the side yard.
1112 All other applicable regulations of the County Code shall remain in force.
1113

1114
1115 Affirmative: Bell, Green, Harris, Johnson, Reid 5
1116 Negative: 0
1117 Absent: 0
1118

1119
1120 **CUP2019-00022 KANIKKA BLAKELY** requests a conditional use permit
1121 pursuant to Section 24-12(g) of the County Code to operate a family day home with
1122 employees at 5412 Huntington Avenue (CHAMBERLAYNE ESTATES) (Parcel 791-746-
1123 1426) zoned One-Family Residence District (R-4) (Fairfield).
1124

1125 Mr. Blankinship - Would everyone who intends to speak to this case please
1126 stand and be sworn in? Is the applicant here this morning? Yes, would you please stand
1127 and raise your right hand. Do you swear the testimony you're about to give is the truth,
1128 the whole truth, and nothing but the truth, so help you God? Thanks. Okay, Mr. Gidley.
1129

1130 Mr. Gidley - Thank you, Mr. Secretary. Good morning madam chair,
1131 members of the board. The subject property is located just north of Henrico High School
1132 in the Chamberlayne Estates subdivision. You can see the home here. It's a 1424-square-
1133 foot dwelling. The applicant, Kanikka Blakely, operates a family day home and she is up
1134 to 10 children. Because she has an outside employee, she is required to obtain a
1135 conditional use permit, thus today's application.
1136

1137 As far as evaluating this request, the property is zoned R-4, One-Family Residence
1138 District, and is designated Suburban Residential 2 on the Future Land Use Plan. A one-
1139 family dwelling is consistent with these designations, as is a family day home with the
1140 approval of a conditional use permit.
1141

1142 As far as any detrimental impact from this request, as you can see here the surrounding
1143 properties, also contain single-family homes, are undeveloped to the rear of the property.
1144 And then you can see the rear yard right here. And, as you can tell, it's a fenced rear yard,
1145 so that enables the children to play safely outside without wandering off onto other

1146 people's property or into the streets. And then back to the front. You can tell she has a
1147 large paved driveway as well, so that enables there to be room for her to park, along with
1148 her employee. So as a result staff really doesn't see any detrimental impact from this
1149 request.

1150
1151 So, to conclude, there's an existing single-family home here with a fenced rear yard. The
1152 applicant has 10 children, which is within the 12 permitted by code. Staff doesn't see any
1153 detrimental impact to nearby property. As a result, staff recommends approval of this
1154 request up to the conditions in your staff report. This concludes my presentation and I will
1155 be happy to answer any questions you may have. Thank you.

1156
1157 Ms. Harris - Thank you. Any questions for Mr. Gidley? Thank you, sir.

1158
1159 Mr. Gidley - Thank you, ma'am.

1160
1161 Ms. Harris - Will the applicant please come forth now. Need you to give
1162 your name, spelling your last name, and let us know what it is that you desire and why.

1163
1164 Ms. Blakely - My name is Kanikka Blakely, B-L-A-K-E-L-Y, and I need a
1165 conditional permit for my outside employee to be able to work with me and help me assist
1166 the children.

1167
1168 Ms. Harris - Have you had any complaint -- how long have you been
1169 running this business?

1170
1171 Ms. Blakely - At this residence?

1172
1173 Ms. Harris - At this residence.

1174
1175 Ms. Blakely - Since 2016.

1176
1177 Ms. Harris - Have you had any complaints from neighbors?

1178
1179 Ms. Blakely - No.

1180
1181 Ms. Harris - I did drive by. I noticed that the rear yard is completely fenced
1182 in. You have a huge tree in your side yard. I noticed that, too. And that's a paper street,
1183 right? I saw some basketball equipment out there, but that's not yours, that's the
1184 neighbors.

1185
1186 Ms. Blakely - Yes.

1187
1188 Ms. Harris - Okay. Are there other questions of Ms. Blakely?

1189

90 Mr. Johnson - In addition, I noticed the house is also -- I've been out there
1191 looking at that near the corner, so you wouldn't have that much additional traffic other
1192 than ones from the resident.

1193
1194 Ms. Blakely - No.

1195
1196 Mr. Johnson - The school, the entrance to come in through there, I know
1197 that's not part of what your facility is, but I noticed it was raining one day, so -- it'll be a
1198 county matter that once they come out from the parking lot from the school there's a hole
1199 that water stands in, you know, in the driveway coming down toward the house, but that's
1200 a county matter. Other than that I, looking at the house, I think the driveway is suitable for
1201 them. You have additional parking and all as well.

1202
1203 Ms. Harris - Other questions? Have you seen the conditions? Have you
1204 read them? There are five.

1205
1206 Ms. Blakely - Yes.

1207
1208 Ms. Harris - Okay, and you agree to those?

1209
1210 Ms. Blakely - Yes.

1211
1212 Ms. Harris - Okay, thank you. I have to take my hat off to you, because the
1213 neighborhoods we do need more safe places for our children and grandchildren to stay.

1214
1215 Ms. Blakely - Thank you, thank you.

1216
1217 Ms. Harris - Thank you for coming in. Is there anyone who wishes to
1218 support this application? Is there anyone who opposes this application? Okay, what is the
1219 pleasure of the board? I move that the application will be approved. It does not adversely
1220 affect the health, safety, nor welfare of the community, and in fact is an asset to the
1221 community. Is there a second?

1222
1223 Mr. Bell - I second.

1224
1225 Ms. Harris - Okay. The motion's been made and properly seconded that
1226 we approve conditional use permit number 22. Are there any questions on the motion?
1227 All in favor of the motion say aye. Opposed say no. Ayes have it. It's been approved.

1228
1229 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Bell,
1230 the Board approved application **CUP2019-00022 KANIKKA BLAKELY's** request for a
1231 conditional use permit pursuant to Section 24-12(g) of the County Code to operate a
1232 family day home with employees at 5412 Huntington Avenue (CHAMBERLAYNE ESTS)
1233 (Parcel 791-746-1426) zoned One-Family Residence District (R-4) (Fairfield). The Board
1234 approved this request subject to the following conditions:

- 1236 1. This conditional use permit applies only to the operation of a large family day home
1237 with one employee from outside the home. All other applicable regulations of the County
1238 Code shall remain in force.
1239
1240 2. No more than 12 children, exclusive of the care provider's own children, may receive
1241 daycare services at any one time.
1242
1243 3. The hours of operation shall be limited to Monday through Friday, 6:00 a.m. to 6:00
1244 p.m.
1245
1246 4. All vehicles associated with the family day home, including vehicles used by the
1247 operator and the outside employee, shall be parked on-site, off the public street right-of-
1248 way.
1249
1250 5. The existing fence shall be maintained, and the gate adjacent to the driveway shall be
1251 repaired so that it closes securely.

1252
1253 Mr. Blankinship - Conditional Use Permit 2019 number 23, the James River
1254 Association.

1255
1256 **CUP2019-00023** **JAMES RIVER ASSOCIATION** requests a conditional use
1257 permit pursuant to Sections 24-12(b) and 24-52(a) of the County Code to allow a
1258 noncommercial recreation facility at 5501 New Market Road (Parcel 846-669-1230)
1259 zoned Agricultural District (A-1)(Varina).

1260
1261 Mr. Blankinship - Would everyone who intends to speak to this case please
1262 stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're
1263 about to give is the truth, the whole truth, and nothing but the truth, so help you God?
1264 Thanks, Mr. Gidley.

1265
1266 Mr. Gidley - Thank you, Mr. Secretary. Members of the board, you should
1267 have a new site plan at your desk that was recently submitted by the applicant. The
1268 subject property is located on the south side of Route 5 just before it crosses into Charles
1269 City County. It is owned by the James River Association and contains 12.2 acres. As you
1270 can tell here, this abuts Turkey Island Creek which eventually flows down into the James
1271 River. This is a copy of the new improvement plan, and let's see if I can zoom in a little
1272 bit here.

1273
1274 The James River Association would like to construct a non-motorized boat ramp on the
1275 property to allow canoes, kayaks, et cetera, to access the James River. In addition to the
1276 ramp, as you can see here, there would be 11 parking spaces along with two portable
1277 toilets. As noted in your staff report, most of the property is located within the 100-year
1278 floodplain. However, so long as the base flood elevation does not increase, recreational
1279 uses, like a non-motorized boat ramp are allowed under the zoning ordinance.

1280

1281 The site would be accessed up here off of Route 5. It would also cross the Virginia Capital
1282 Trail, which allows bicycle access between Richmond and Williamsburg and that's located
1283 right here.

1284
1285 As I noted, the applicant has provided a new site plan. This was submitted in response to
1286 information provided by the Department of Public Works that indicated the parking lot and
1287 the driveway could not be located within resource protection area, RPA, buffer. Which is
1288 100 feet off the creek.

1289
1290 The new plan has relocated these outside of the RPA buffer and accordingly, condition
1291 number two, your staff report will need to be modified to reference this latest site plan. In
1292 evaluating the request, the property is zoned A-1, Agricultural District and is designated
1293 as Environmental Protection Area and Prime Agriculture on the Future Land Use Plan. A
1294 non-motorized boat ramp is consistent with these designations.

1295
1296 As far as any detrimental impact on nearby property, as you can tell here, this whole area
1297 on this side of Route 5 is wooded and a lot of it is wetland as well. And so, in the future,
1298 you're probably not going to see much development occur on these parcels. Across Route
1299 5 this parcel is 426 acres, it is owned by Henrico County and is protected by a
1300 conservation easement.

1301
1302 This easement limits it's uses to four dwellings along with agricultural and conservation
1303 uses. The proposed boat ramp should therefore not have a detrimental impact on nearby
1304 property given the limitations on development in this area.

1305
1306 So, in conclusion, the property adjoins an inlet of the James River. The proposal is
1307 consistent with the zoning ordinance and comprehensive plan, given the limitations on
1308 development in this area, staff does not see any substantial detrimental impact to nearby
1309 property. As a result, we recommend approval of this request subject to the conditions in
1310 your staff report. This concludes my presentation. If you have any questions, I will
1311 certainly be happy to answer those. Thank you.

1312
1313 Ms. Harris - Mr. Gidley, I noticed on the application we don't have any
1314 dates. What dates are we approving or disapproving this conditional use permit?

1315
1316 Mr. Gidley - This is not a temporary conditional use permit. Under the
1317 zoning ordinance this is a regular conditional use that is allowed in perpetuity. Somewhat
1318 similar to the case we just had with the family day home.

1319
1320 Ms. Harris - Okay. Do we have a start date?

1321
1322 Mr. Gidley - As far as when they believe they'll get construction started,
1323 we have a representative from the James River Association here and also from the
1324 County Parks and Recreation Department, so I suspect one of those two gentlemen can
1325 give you that information.

1327 Ms. Harris - Okay, thank you.
1328
1329 Mr. Gidley - Yes, ma'am.
1330
1331 Ms. Harris - Are there questions, other questions, from board members?
1332 Thank you, Mr. Gidley.
1333
1334 Mr. Gidley - Thank you, ma'am.
1335
1336 Ms. Harris - We need the applicant to come forth, please. Give us your
1337 name, spelling your last name.
1338
1339 Mr. Doyle - Good morning. My name is Justin Doyle, I'm with the James
1340 River Association.
1341
1342 Ms. Harris - Your last name is what?
1343
1344 Mr. Doyle - Doyle, D-O-Y-L-E.
1345
1346 Ms. Harris - Thank you.
1347
1348 Mr. Doyle - The James River Association is planning a non-commercial
1349 recreation facility at its property at 5501 New Market Road in the Varina Magisterial
1350 District. James River Association propose improving the existing driveway on the property
1351 and constructing a small parking area consisting of 11 parking spaces, which includes
1352 one handicap accessible space, a boat launch for non-motorized boats, and a designated
1353 area for porta-potties.
1354
1355 The property is protected by a Virginia Outdoors Foundation Conservation Easement and
1356 all 11 parking spaces as well as the pad for porta-potties are located outside of the
1357 resource protection area on the layout. When complete this project will provide improved
1358 access to Turkey Island Creek, a tributary of the James River, and I'm happy to answer
1359 any questions you may have at this time.
1360
1361 Ms. Harris - Dates of construction?
1362
1363 Mr. Doyle - As soon as all approvals are received.
1364
1365 Ms. Harris - Tomorrow?
1366
1367 Mr. Doyle - Unlikely tomorrow. Summer, likely.
1368
1369 Ms. Harris - Right, thank you. Are there questions of Mr. Doyle?
1370
1371 Mr. Johnson - The staff report also mentioned that you have Native
1372 American archeological sites in the area.

73
1374 Mr. Blankinship - I think that's the next case.
1375
1376 Mr. Johnson - Is that 23?
1377
1378 Mr. Blankinship - Is there something on 23?
1379
1380 Mr. Johnson - Oh, you're right.
1381
1382 Ms. Harris - Okay, I have a question.
1383
1384 Mr. Reid - It says the site also contains a Native American archeological
1385 site that is just potentially eligible for the National Register of Historic Places designation.
1386
1387 Mr. Blankinship - Thank you, Mr. Reid. I'm sorry. I had forgotten that that was
1388 true of this case as well as the next case.
1389
1390 Ms. Harris - So, Mr. Johnson, what is your question?
1391
1392 Mr. Johnson - I was just concerned that that's something the public would be
1393 interested in. So, you know, these aren't your natural artifacts in the area.
1394
95 Mr. Doyle - So this project is being funded in part by the National Park
1396 Service and will be a trailhead for the Captain John Smith Chesapeake National Historic
1397 Trail, and the James River Association as part of this project intends to install interpretive
1398 signage, which tells the story about Captain John Smith and Virginia Indians that
1399 inhabited the banks of James River at this time -- at that time in history.
1400
1401 Ms. Harris - And how long should the construction take? In other words,
1402 when will you be ready for the public?
1403
1404 Mr. Doyle - Yes. So the current goal is by the end of 2019.
1405
1406 Ms. Harris - 2019. Are you going to have any type of PR campaign, or let
1407 the public know that it's there?
1408
1409 Mr. Doyle - Absolutely.
1410
1411 Ms. Harris - Okay. And by that time we can get through New Market Road.
1412 I discovered yesterday, this street is closed. Mr. Johnson, did you run into that problem?
1413 Yes, and then 22 miles it took me to get there, and 22 miles to reroute it, so I know all
1414 that would be cleared up by then. Okay, are there other questions from board members
1415 of Mr. Doyle? We thank you for coming in.
1416
117 Mr. Doyle - Thank you.
1418

1419 Ms. Harris - Is there anyone else who supports this application and who
1420 would like to speak? Is there anyone who is in opposition to this application please come
1421 and speak. Give us your name spelling your last name.

1422
1423 Mr. Rudisill - Good morning. My name is Richard Rudisill, III. My last name
1424 is spelled R-U-D-I-S-I-L-L, and I'm speaking on behalf of my family and my father who,
1425 despite his best efforts, couldn't be here today.

1426
1427 We don't necessarily oppose this. As it's a beautiful idea it just presents some large
1428 problems. So this is what my father wrote.

1429
1430 *Thank you for your time this morning, the subject of the public utilizing Turkey Island*
1431 *Creek for recreational purposes is my purpose for discussion. The tributary to the James*
1432 *River is bordered by the property my family owns and has been handed down through*
1433 *the family for generations. We, the descendants of the Ladd family, have enjoyed the*
1434 *riparian rights to the creek for generations. We earn income from the creek and its access*
1435 *as part of their income past and present. We are interested in acquiring all the information*
1436 *available from the county and its partners in the exploration of developing activities in, on,*
1437 *and around Turkey Island Creek Tributary.*

1438
1439 *There are many obstacles to continuous use of the tidal creek that is Turkey Island. We*
1440 *having lived on, and have been stewards of, Turkey Island Creek and Mount Prospect for*
1441 *generations. We have -- we are storied in its history and its health. Our family both owns*
1442 *Mount Prospect and manages Malvern Hill, which is across the road, from shortly after*
1443 *the Civil War until it was purchased by the Ferguson Family, although we were not slave*
1444 *owners.*

1445
1446 *In the years prior to 1958 when the Turkey Island Mining Operation opened on the Henrico*
1447 *County side of Turkey Island Creek, we enjoyed Herring, Chad and Striper runs, goose*
1448 *and duck and waterfowl, both migratory and resident, on the creek. Turtling, trapping and*
1449 *hunting have been excellent because man has not been able to put pressure on the*
1450 *wildlife that call Turkey Island Creek home.*

1451
1452 *The mining operation changed part of that. Evidence of the changes are the fact of the*
1453 *order of the Corps of Engineers. The creek was dredged from the James back to the*
1454 *outflow area of the silt ponds at the gravel pit in Henrico on Turkey Island Creek. The*
1455 *creek was dredged twice, once in 1967 and again in 1978. The Corps of Engineers*
1456 *ordered Saddler Materials to dredge this creek back to the depths shown in the corps'*
1457 *surveys. The washing operation of the quarry was deemed responsible.*

1458
1459 *In 2001 we again contacted Henrico County as the mining operation was closing down*
1460 *and the Henrico department overseeing the operation made us aware that because we*
1461 *do not reside in Henrico the officials were not accountable to the residents of Charles City*
1462 *County. We, the Rudisills of Mount Prospect on Turkey Island Creek, are not here to*
1463 *revisit old problems. The reference to the mining is only to illustrate we have already had*
1464 *experience with the county in matters concerning the creek and our rights.*

1465 *The effects of a boat launch in the area of the old brick foundry along the creek are of*
 1466 *concern to us and our way of life. We respectfully request that the life we have enjoyed*
 1467 *and the income that the creek has provided us be protected in the crafting of the language*
 1468 *that will govern the property and its uses. In addition, we would ask the governing bodies*
 1469 *to make available to us the proffers that will establish and govern any and all activities*
 1470 *being concerned now and for the future at the property being proposed for public use on*
 1471 *Turkey Island Creek. Thank you again for the opportunity to speak to the proposed*
 1472 *changes and the effect it will have on the residents of the creek and adjacent landowners.*
 1473
 1474
 1475 Ms. Harris - Can you point out your property on this map, or do you need
 1476 another map to show us?
 1477
 1478 Mr. Rudisill - It shows part of our property. So to the right of the yellow and
 1479 going down, and it continues going down to the right.
 1480
 1481 Ms. Harris - Excuse me. Can someone assist hm with the cursor.
 1482
 1483 Mr. Rudisill - Yes, sir. Thank you. This area, ma'am.
 1484
 1485 Ms. Harris - So that is your property?
 1486
 1487 Mr. Rudisill - Yes, ma'am. And it continues this way.
 1488
 1489 Ms. Harris - Does it go to the Charles City line?
 1490
 1491 Mr. Blankinship - He's in Charles City.
 1492
 1493 Mr. Rudisill - This is in Charles City.
 1494
 1495 Ms. Harris - Okay.
 1496
 1497 Mr. Reid - Does it go all the way to the river?
 1498
 1499 Mr. Rudisill - Yes. Well, no. So our land stops probably 200 yards before
 1500 the actual river.
 1501
 1502 Mr. Johnson - Two questions.
 1503
 1504 Mr. Rudisill - Yes, sir.
 1505
 1506 Mr. Johnson - What's the impact on your property, and what were you doing
 1507 for income?
 1508
 1509 Mr. Rudisill - The income came from taking people along the creek to show
 1510 them -- so they can watch birds and, or hunt birds.

1511
1512 Mr. Johnson - On the opposite side.
1513
1514 Mr. Rudisill - Yes, sir. And also with turtling, fishing and other things.
1515
1516 Ms. Harris - Questions of other board members. I'm just wondering, why
1517 can't the county get with the property owners. Since this is a new construction, it seems
1518 to me that something could be worked out so that everybody wins. Probably all need to
1519 cooperate, too, with each other. But we will ask, when the rebut is done, we will ask for
1520 the cooperation.
1521
1522 Mr. Johnson - Right.
1523
1524 Mr. Blankinship - Yes, ma'am.
1525
1526 Ms. Harris - All right, thank you for coming in.
1527
1528 Ms. Hylton - Good morning.
1529
1530 Ms. Harris - Good morning.
1531
1532 Ms. Hylton - My name's Virginia Hylton and it's H-Y-L-T-O-N.
1533
1534 Ms. Harris - Okay.
1535
1536 Ms. Hylton - I currently reside in Henrico in the Samson area. I will be
1537 building my home for my retirement, which won't be too long, just past the property in
1538 which the gentleman was up speaking on. My uncle lived there all his life as part of the
1539 Ladd family. I am as well.
1540
1541 I'm excited things will be going on down in that area, however, living in Henrico I know we
1542 have several areas that we open for traffic and for people to enjoy and they aren't
1543 governed very well because we can't have somebody there 24 hours a day. So I know
1544 my uncle, who had cancer, bike trail, ended up having people park in the driveway. We
1545 had trouble getting out a couple of times, and that's a great thing to have.
1546
1547 So who will be the one governing or watching the toilets that are being done? Will the
1548 parking then be consistent with only boaters? Could it be people who are then biking and
1549 then the boaters have to take an alternate space? I just have some questions there that I
1550 don't have a good answer on and I am from the Henrico side as well coming down to
1551 enjoy that same area.
1552
1553 The other thing I would share when my relative was talking about the income for the
1554 hunting, there's been a lot of study, and I'm not very good on it, however, the birds that
1555 come have to be able to lay, I think it's either half an hour or hour before dusk and before
1556 dawn so that they can have their habitat. So are we going to have guidelines that are

1557 going to give us those bridges to not lose those resources? I don't have that answer,
1558 either.

1559
1560 So I would like to have y'all's greater understanding of how those things will be addressed.
1561 Will the toilets be done every day? Will it be policed for the cigarette butts and the trash
1562 and the things that can come with it? Are they going to come on the other side because
1563 the creek is low and then go on my property and potentially cause some problems? Are
1564 they going to be relic hunters? We have some issues there because it's a great place for
1565 the battlefield and we've had that happen on our land already. And then, of course, there
1566 are Indian natives, we have some in our family, so all of these are concerns that I would
1567 like you all to take into consideration on this.

1568
1569 Ms. Harris - Okay. We would ask Mr. Doyle to address these concerns
1570 when he comes back to the mic. But could you point out your property. Help her, please,
1571 with the mouse.

1572
1573 Ms. Hylton - Okay. My property starts right when you see the Charles City
1574 sign on Route 5, right where the creek is, and runs up and touches the property of the
1575 gentleman who was talking before. And then that proceeds on into Charles City County,
1576 so we're right where, if you saw the bridge right there for Turkey Island Creek, we're on
1577 the Charles City side, so is it blank --

1578
1579 Mr. Blankinship - I think if you go back to the vicinity map, I think it's about, if I
1580 understood you correctly, ma'am, is it about where the word "city" is printed there?

1581
1582 Ms. Hylton - No.

1583
1584 Mr. Blankinship - Because the bridge would be just north of that where the road
1585 crosses the county line.

1586
1587 Mr. Green - Right.

1588
1589 Ms. Hylton - The bridge actually touches our property.

1590
1591 Mr. Blankinship - Okay so the -- let's go just north with the cursor. Right there
1592 you see where the road crosses the county line. That would be the bridge.

1593
1594 Ms. Hylton - Right and that's right where we start, the county line. We are
1595 the county line.

1596
1597 Mr. Blankinship - Okay, and then coming south and west, so where the word
1598 "city" is printed, too.

1599
1600 Ms. Hylton - Thank you. I'm sorry, I'm not good at this.

1601
1602 Mr. Rudisill - It's this parcel of land.

1603
1604 Mr. Blankinship - Oh, okay.
1605
1606 Ms. Hylton - It's right over where the -- and then it goes down from there.
1607
1608 Ms. Harris - And this is Henrico County, right?
1609
1610 Ms. Hylton - We're on the Charles City side.
1611
1612 Mr. Johnson - Charles City.
1613
1614 Ms. Hylton - But I still live in Henrico County right now, so I'm asking as a
1615 resident for the -- who's going to maintain this? Is Rec and Parks going to go down there
1616 and make sure it's cleaned up?
1617
1618 Ms. Harris - Yes we heard the questions. We're going to address those in
1619 just a moment. Are there any questions of Ms. Hylton? Okay. We're going to let the
1620 applicant come forth and address some questions.
1621
1622 Ms. Hylton - Okay, thank you.
1623
1624 Ms. Harris - Thank you. Mr. Doyle.
1625
1626 Mr. Doyle - I appreciate the feedback from the residents. The James River
1627 Association took ownership of the property last year and we've been stewarding the
1628 property since that time. We are currently launching private programs from the property,
1629 private canoe programs. Just last week we had a group of high school students as part
1630 of our James River Leadership Academy that paddled over from Presquile National
1631 Wildlife Refuge where we have a James River Ecology School. They paddled from there
1632 up Turkey Island Creek to this 12.2-acre property. So we're already using it. It serves our
1633 needs in terms of providing on-the-water experiences for students throughout the
1634 Richmond region. And, again, I feel like we've been great stewards of the property to
1635 date. We will continue to do so.
1636
1637 I will say that our intention is to eventually transfer this property to Henrico County to be
1638 managed as a public park. So the questions and concerns regarding management of the
1639 porta-potty in particular would likely become the responsibility of Henrico County
1640 Recreation and Parks Department.
1641
1642 Ms. Harris - When do you plan to transfer that?
1643
1644 Mr. Doyle - Transfer would occur following improvements to the property.
1645
1646 Ms. Harris - So we would pass the problem on to Henrico County.
1647
1648 Mr. Blankinship - The responsibility.

1649 Ms. Harris - The responsibility. I don't know what other board members
1650 feel, how you feel, but it seems like there needs to be a meeting with some of these
1651 residents near the adjacent Charles City line so they will feel that their interests are being
1652 considered. Is that possible?
1653
1654

1655 Mr. Doyle - Happy to schedule a meeting and sit down with folks and
1656 listen to them and come to some agreements on how the property can be managed going
1657 forward.
1658

1659 Ms. Harris - Okay, so will you talk with them before you leave today? Is
1660 that possible?
1661

1662 Mr. Doyle - I'm happy to do that.
1663

1664 Ms. Harris - Okay. Other questions from board members?
1665

1666 Mr. Johnson - And everything's in yellow is really in the Henrico area,
1667 correct, isn't it?
1668

1669 Mr. Doyle - That's correct.
1670

1671 Mr. Johnson - On the opposite side, Charles City, they have their own
1672 regulations as well as far as how they deal with their land, their parcels. So in working
1673 with them, like Madam Chair said, I think that will be a good idea to kind of coordinate it.
1674 So everything would be kind of consistent. Especially what the county is trying to do as
1675 well.
1676

1677 Ms. Harris - Yes, we do want to be good neighbors.
1678

1679 Mr. Blankinship - Absolutely.
1680

1681 Mr. Doyle - Absolutely. And I will say that when we took ownership of the
1682 property there was a derelict hunting shack that was on the property, trash and debris all
1683 over the property, and we spent the better part of the last year cleaning up the property,
1684 hauling that trash and debris off to dumps just to return it to its natural state. And our
1685 intention is to keep it in its current state as much as possible. We want it to be a natural
1686 area for the public to enjoy.
1687

1688 Ms. Harris - Okay. Other questions from board members? Thank you so
1689 very much for coming in.
1690

1691 Mr. Doyle - Thank you.
1692

1693 Ms. Harris - Okay, let's vote on this conditional use permit number 23.
1694 What is the pleasure of the board?

1695
1696 Mr. Johnson - Madam Chair, I move that we approve the conditional use
1697 permit subject to conditions recommended by the staff. The property is far removed from
1698 all the neighbors, and also the property across New Market Road is owned by the county.
1699 When this boat launch is constructed it will be operated and maintained by the county, so
1700 we know that it will not have any detrimental impacts. And we can address those
1701 properties. The boat launch will be accessed by the community and will improve the
1702 community access to the James River as well.
1703
1704 Ms. Harris - Okay, is there a second?
1705
1706 Mr. Green - Second.
1707
1708 Mr. Reid - I second.
1709
1710 Ms. Harris - It's been moved and properly seconded that we approve
1711 conditional use permit number 23. Any discussion on this motion?
1712
1713 Mr. Bell - A real quick question for you. Since the county is going to
1714 meet a couple of people today or tomorrow, whatnot, what happens if they resolve some
1715 of the questions?
1716
1717 Mr. Blankinship - If they resolve --?
1718
1719 Mr. Bell - If they resolve it and they didn't do it as a condition on here,
1720 or is there a whole other case comes up?
1721
1722 Mr. Blankinship - We have not recommended any, I mean, if there are any
1723 conditions that you heard this morning that you'd like to put on the use permit, that could
1724 be done at this time if you made a motion.
1725
1726 Mr. Bell - --- community and the complaints --- .
1727
1728 Mr. Blankinship - Right. Yes. I think they will meet and negotiate, you know,
1729 whatever it is they need to do.
1730
1731 Mr. Bell - Thank you.
1732
1733 Mr. Blankinship - Yes, sir.
1734
1735 Ms. Harris - Any other comments? Okay, all in favor --
1736
1737 Mr. Johnson - And --
1738
1739 Ms. Harris - Questions, Mr. Johnson?
1740

1741 Mr. Johnson - I would just say the six conditions that are mentioned will be
1742 worked out to be as close to --- representative of these conditions.

1743
1744 Mr. Blankinship - Yes, sir.

1745
1746 Ms. Harris - Okay, any other issue? All in favor of the motion say aye.
1747 Those opposed say no. Ayes have it and so ordered.

1748
1749 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr.
1750 Green, the Board approved application **CUP2019-00023 JAMES RIVER**
1751 **ASSOCIATION's** request for a conditional use permit pursuant to Sections 24-12(b) and
1752 24-52(a) of the County Code to allow a noncommercial recreation facility at 5501 New
1753 Market Road (Parcel 846-669-1230) zoned Agricultural District (A-1) (Varina). The Board
1754 approved this request subject to the following conditions:

1755
1756 1. This conditional use permit applies only to the use of the property for a public ramp for
1757 nonmotorized boats. All other applicable regulations of the County Code shall remain in
1758 force.

1759
1760 2. Only the improvements shown on the plans entitled "Turkey Island Creek Canoe
1761 Launch" by HG Design Studio revised June 24, 2019 may be constructed pursuant to this
1762 approval. Any additional improvements shall comply with the applicable regulations of the
1763 County Code. Any substantial changes or additions to the design or location of the
1764 improvements shall require a new conditional use permit.

1765
1766 3. Before beginning any clearing, grading, or other land disturbing activity, the applicant
1767 shall obtain approval of an environmental compliance plan from the Department of Public
1768 Works.

1769
1770 4. Hours of operation shall be limited to between dawn and dusk.

1771
1772 5. The parking lot, driveways, and loading areas shall be subject to the requirements of
1773 Section 24-98 of the County Code.

1774
1775 6. All traffic control signs shall be fabricated as shown in the Virginia Manual of Uniform
1776 Traffic Control Devices for Streets and Highways. In addition, the applicant shall satisfy
1777 the requirements of the Virginia Department of Transportation (VDOT) regarding traffic
1778 safety along both Route 5 and the Capital Trail.

1779
1780
1781 Affirmative: Bell, Green, Harris, Johnson, Reid 5
1782 Negative: 0
1783 Absent: 0

1784

1785

1786 **CUP2019-00024** **BRIEL FARM SOLAR, LLC** requests a conditional use permit
1787 pursuant to Section 24-116(d)(2) of the County Code to allow a renewable energy facility
1788 at 2701 Meadow Road (Parcel 842-716-0583) zoned Light Industrial District (M-1C)
1789 (Varina).

1790
1791 Mr. Blankinship - Would everyone who intends to speak to this case please
1792 stand and be sworn in. Would you raise your right hands please. Do you swear the
1793 testimony you're about to give is the truth, the whole truth, and nothing but the truth, so
1794 help you God? Okay. Mr. Madrigal.

1795
1796 Mr. Madrigal - Mr. Secretary, madam chair, members of the board. Before
1797 you is a request to allow a renewable energy facility in a light industrial district. This project
1798 was originally approved on May 25, 2017. County code provides the construction or
1799 operation of a project shall be commenced within two years of the date of the issuance of
1800 a CUP, or it shall become void. The applicant obtained a permit by rule from DEQ and
1801 has been working towards plan approval. However, the county's two-year approval period
1802 has passed, and the applicant has not started construction or operation of the facility.

1803
1804 We are therefore requesting approval of the same project that was received two years
1805 ago to allow them additional time to complete the state's plan approval process and begin
1806 construction.

1807
1808 Briel Farm Solar proposes to cover approximately 90 to 100 acres of the 229-acre project
1809 site with solar panels. The electricity generated from the facility will be sold at wholesale
1810 to one or more electric utilities who will distribute it to customers. The proposed system
1811 consists of 71,000 solar panels, 12 inverters, a transformer and an interconnection point.

1812
1813 The proposed use is passive in nature and that it does not require any manufacturing,
1814 processing, transportation or labor, and does not produce any noise, vibration, dust,
1815 smoke, or any other emissions once a project is up and running. The projected life of the
1816 facility is three years. The owner's long-term plan is to remove the solar panels and
1817 equipment and convert the property to industrial office use once the necessary public
1818 infrastructure is in place.

1819
1820 The proposed solar farm can be considered a placeholder use to derive income from the
1821 property until economic development becomes practical. The property is zoned M-1C and
1822 is designated Rural Residential and Environmental Protection Area on the 2026 Future
1823 Land Use Map. The planning commission has determined that the proposed use is
1824 substantially in accord with the comprehensive plan. Although the proposed use is not
1825 contemplated under the light industrial district or the 1989 rezoning case, it is consistent
1826 with the purpose of the zoning district, particularly if it is viewed as a placeholder project
1827 until a more beneficial use can be recruited to the site.

1828
1829 Once construction is complete, the proposed use will generate almost no traffic, noise,
1830 glare or other impact typically associated with an industrial use. It is essentially a passive,

1831 unmanned facility with the exception of maintenance crews who will occasionally service
1832 the site.

1833
1834 The visual impact of close to 100 acres of solar panels could be detrimental to the
1835 surrounding area, although the site's topography and existing trees will help limit the view
1836 of solar panels from the adjacent highways. Supplemental landscaping along the
1837 southern and western property lines should be all that is necessary to maintain the rural
1838 character from that vantage point. The view from Meadow Road is more of a concern and
1839 will require a landscaping buffer along the northern boundary of the project to help
1840 mitigate the impact on nearby property.

1841
1842 According to the applicant, the proposed use will have negligible effects on stormwater
1843 management, flood plains and wetlands since those environmentally sensitive areas will
1844 be minimally disturbed.

1845
1846 One of the conditions from the previous approval requires the applicant to perform a
1847 phase one site assessment to identify historic resources. That assessment was
1848 completed and includes specific recommendations to preserve, protect and interpret the
1849 cultural resources on the site.

1850
1851 Staff has revised condition number nine to reflect the condition of the assessment and
1852 the incorporation of its recommendation by reference. All other suggested conditions are
1853 consistent with the original approval.

1854
1855 In conclusion, the planning commission has determined that the proposed use is
1856 substantially in accord with the comprehensive plan. Although the county considers the
1857 site to be a prime economic development location, the proposed facility will allow the
1858 property owner to benefit from the property until a suitable user is found. When a project
1859 reaches the end of its useful life, the solar panels and all related equipment will be
1860 removed. In the meantime, the proposed facility will contribute to the county's goals of
1861 promoting sustainable development.

1862
1863 Based on the facts of this case, staff recommends approval of subject request subject to
1864 conditions. That concludes my presentation. I'll be happy to answer your questions.

1865
1866 Ms. Harris - Okay, Mr. Madrigal, we have quite a narrative on this project.
1867 Trying to see what phase this is.

1868
1869 Mr. Madrigal - I try to keep it short.

1870
1871 Ms. Harris - Under a zoning and use. This is the place before the
1872 conclusion from Mr. Bowers. It talks about the Board of Zoning Appeals and our process
1873 that we will address specific concerns such as landscaping, setbacks and fencing. But
1874 we may address more issues other than landscape, setbacks and fencing. And I just want
1875 to be sure that that's agreeable with everybody.

1877 Because in this report, I know it was approved, but I have many questions about it. We
1878 say it was approved on May 25th --
1879
1880 Mr. Madrigal - 2017.
1881
1882 Ms. Harris - 2017, right. But as we looked through the report, they had just
1883 so many things that I just, I have concerns about. I just have questions. For clarification,
1884 I just need to know what we're dealing with.
1885
1886 Mr. Madrigal - Would those be appropriate for me, or for the applicant?
1887
1888 Ms. Harris - Probably the applicant.
1889
1890 Mr. Madrigal - Okay.
1891
1892 Ms. Harris - Any questions of Mr. Madrigal? Thank you -- oh, Mr. Johnson.
1893
1894 Mr. Johnson - The location where we're putting the solar panels it's near the
1895 interstate so it's really the ones that are really impacted are the ones that ride in the
1896 highway, isn't it?
1897
1898 Mr. Madrigal - The visual impact, yes sir.
1899
1900 Mr. Johnson - The visual impact, yes. Okay.
1901
1902 Ms. Harris - Okay. Any other questions of Mr. Madrigal? Thank you so very
1903 much.
1904
1905 Mr. Madrigal - Thank you.
1906
1907 Ms. Harris - We need the applicant to come forth now and give us your
1908 name, spelling your last name.
1909
1910 Mr. Bowers - Good morning Chair Harris, Board, Mr. Blankinship.
1911
1912 Ms. Harris - Good morning.
1913
1914 Mr. Bowers - My name is Rodger Bowers, B-O-W-E-R-S, on behalf of Briel
1915 Farm Solar. I appreciate your hearing us this morning. Briel Farm Solar was approved
1916 by CUP 2017-22 back in May of '17, and the applicant has been working diligently to get
1917 its permitting approved so that it can begin construction. It received a permit by rule, which
1918 is the state approval process for electrical facilities of this type. In June of '18 that included
1919 the requested work of the architectural review, phase 1 architectural review, and that was
1920 reviewed by the Department of Historic Resources, and a treatment plan was worked out.
1921

1922 There are some specific areas on site that we will avoid completely, and then there is a
1923 plan in place in case during construction of the other parts of the facility, any historically
1924 significant points are found and how to address those.
1925

1926 Moving forward, the applicant has received its small generator interconnection agreement
1927 that is the ability to put the power up into the grid. In April of 2019, and the project itself,
1928 including ownership if Briel Farm Solar was transferred at the end of April to Next Energy,
1929 which is an owner and operator of solar projects principally in England and Italy, but
1930 throughout the world, and they are expanding into the United States, and they have two
1931 projects that they're pursuing here in Virginia.
1932

1933 We met with staff last week, with a representative from Next Energy, and as well as the
1934 representative from the construction company, and I have those folks here with me today
1935 are Artie --- with Green Cells and --- Hanson who's representing Next.
1936

1937 Briel Farm Solar is diligently pursuing this project, and their civil engineer, Draper Aden,
1938 the local civil engineer, is working closely with the county right now to get a final request
1939 for permitting in for the construction plans. Their goal is to be under construction out on
1940 site probably as soon as the fourth quarter of this year with the primary construction being
1941 in the first quarter of next year, bringing the facility online right now anticipated to be ready
1942 to produce power in April of next year.
1943

1944 The interconnection agreement that they have with Dominion requires them to have that
1945 power turned on and ready to go by May of next year. So within a year we feel like the
1946 construction will be done and the facility will be ready.
1947

1948 We accept the conditions proposed by staff. We respectfully request that the CUP be
1949 approved to allow applicants to continue diligent efforts to obtain construction permits and
1950 build the project, and any questions you may have, Ms. Harris, I'm happy to answer them
1951 as best myself or Ms. Harmon will be happy to answer those.
1952

1953 Ms. Harris - Okay.

1954 Mr. Johnson - Yes.

1955 Ms. Harris - Are there any other projects like this installation in Virginia?
1956

1957 Mr. Bowers - Yes, ma'am. This is what is classified as an under 20-
1958 megawatt solar facility. There are approximately 10 or 12 of those already online in
1959 Virginia. The ones that I know of, off the top of my head, there's one in Isle of Wight, in
1960 Powhatan, in Louisa, in Buckingham. There are larger utility scale solar facilities, the over
1961 20-megawatt variety that are on larger sites, and there are six or eight of those online and
1962 probably several more under construction. There are a lot of other solar facilities that are in
1963 the permitting stages as well.
1964
1965

1966 Ms. Harris - Did we have one in Varina that came before us?
1967

1968

1969 Mr. Bowers - Yes.

1970

1971 Mr. Blankinship - We have a second one that's been approved. They also are

1972 working through the approval process through the state.

1973

1974 Ms. Harris - Right, but you're not working with the facility in Varina?

1975

1976 Mr. Bowers - I am not. I was a consultant to them during their permitting

1977 stage, but I have no continual relationship with them at this time.

1978

1979 Ms. Harris - Will you be in direct competition with Dominion Virginia

1980 Power?

1981

1982 Mr. Bowers - No. In fact, per the small generator connection agreement we

1983 will be selling the power to Virginia Power to put into the grid.

1984

1985 Ms. Harris - Okay. I noticed that you said there will be no emissions and

1986 no noise and so forth. But, you know, before we dig as residential owners they tell you

1987 don't dig unless you have permission to dig. And I noticed that you have some

1988 underground construction here, installations here.

1989

1990 Mr. Bowers - Yes, ma'am.

1991

1992 Ms. Harris - So would that affect digging, or -- I think this is underground.

1993 You're going to go underground at I-64, and you're going to go along a whole other road.

1994 Would those homeowners have a problem with digging or anything like that?

1995

1996 Mr. Bowers - I've been down, it was two years ago, but I've been down the

1997 road on the south side of 64 and there are no residents there. That is mostly undeveloped

1998 land. It's a large part of the industrial -- or the area that the county has reserved for future

1999 land development north of 60, you know, obviously White Oak is south of 60, but that

2000 area. I don't remember whether the cul-de-sac on the end of that road directly abuts 64,

2001 or it'll have to cross a small piece of private property. But we will need to, or Dominion

2002 Power, will need to obtain whatever easements are necessary to bring those lines across.

2003

2004 The picture you have on your screen is helpful. The interconnection point on our site is

2005 approximately here, and then the undergrounding would go - so it does look like if they

2006 take the shortest route, they will need to cross this field, but that, again, will be

2007 underground. The connection point is here on Old Williamsburg Road, but the distribution

2008 line it's actually a 34.5 kb distribution line, comes all the way down Old Williamsburg Road,

2009 and I guess they could go directly from public property to public here at the very end of

2010 the street, but I doubt they would want to do that because that would involve crossing

2011 under the flyover as well as the area of 64.

2012

13 I assume they'll do an underground bore without having to disturb the surface is the way
2014 they normally do that. And they can do that sufficient distance to come right across here
2015 and then have a private easement that would get them across this land to Old
2016 Williamsburg there. Similar to any other electrical easement that is obtained for electric
2017 lines.
2018

2019 The preference for underground is actually a preference. The undergrounding of lines
2020 within the facility is done so that there's not a lot of poles in addition the posts and panels,
2021 which are all under 20 feet in height.
2022

2023 Ms. Harris - And I noticed in your point you talk about
2024 seasonal water table, and you know that Varina is known for seasonal water table
2025 problems. So, I mean, I wonder how you're going to deal with this, is this the best place
2026 for it.
2027

2028 Mr. Bowers - Yeah. This actual location has a fair amount of topography.
2029 The area where the panels are raised up above there is an existing creek which parallels
2030 the area that is the right-of-way here that kind of splits through. And then there's an
2031 existing pond on the site. In addition to that, the applicant will create it's own stormwater
2032 retention facilities to handle any runoff that happens from the construction on site. And to
2033 make sure that there'll be no increase in stormwater flow offsite as per the stormwater
2034 regulations. And then during construction the erosion and sediment controls will be in
2035 place to temporarily control stormwater until those permanent facilities come online and
2036 are stabilized.
2037

2038 Ms. Harris - Okay. Has the Board of Supervisors for Henrico County
2039 approved this?
2040

2041 Mr. Bowers - They did in a substantially in accord determination in either
2042 March or April of 2017.
2043

2044 Ms. Harris - Okay. I saw that it was supposed to be on May 9th.
2045

2046 Mr. Bowers - It was May 9th, you're absolutely right. And, yes, we did
2047 receive the substantial in accord determination.
2048

2049 Ms. Harris - Okay. Are there other questions by board members?
2050

2051 Mr. Johnson - Yes, Mr. Blankinship, this is the case that came before us last
2052 month and the only reason we deferred it was because it was just not on the agenda.
2053

2054 Mr. Blankinship - Yes, sir. It was just not properly on the agenda right at the
2055 time.
2056

2057 Mr. Johnson - And then what they were looking for was an extension?
2058

2059 Mr. Blankinship - Additional time because of the review process.
2060
2061 Mr. Johnson - Additional time. All right. Okay. So that's the only --
2062
2063 Mr. Blankinship - State and county review process.
2064
2065 Mr. Johnson - So that was really the only matter.
2066
2067 Mr. Blankinship - Yes, sir.
2068
2069 Mr. Johnson - And we asked them to graciously come back, because we
2070 wanted to publicly advertise this?
2071
2072 Mr. Blankinship - Yes.
2073
2074 Mr. Johnson - Yes.
2075
2076 Mr. Reid - Mr. Bowers, is there any glare from those panels impacting
2077 people driving on 64, 295?
2078
2079 Mr. Bowers - Actually, the panels have a dark anti-glare coating. They want
2080 to grab as much of the light as they can. They don't want any of that to come off, and so
2081 no, there is no glare of any portion. I mean, there is still, I mean, light shines upon them,
2082 but the panels themselves also turn during the course of the day to stay directly pointed
2083 at the sun so that they can -- that's the point of the tracker panels that are on racks.
2084
2085 They're on north/south racks that start facing the east and they want to actually get a
2086 direct zenith, or whatever the angle to the sun, and they turn every 15 minutes during the
2087 course of the day. There will also, along those areas of principally the access ramp from
2088 64 westbound to 295 northbound, it's called north or west there. There is some existing
2089 vegetation within all the setback areas, and that will remain, the existing vegetation that
2090 is on the ground, if it's in good shape. There may be some need to take down the taller
2091 trees within that setback area, because they shade the panels, but if that's the case then
2092 they'll replace that with a vegetation that has a mature height of 20 to 25 feet that will
2093 create a full screening and yet not create the taller vegetation that would then shade the
2094 panels and defeat the purpose of collecting the sun.
2095
2096 Mr. Reid - I also noticed on the plan there's a cemetery sort of in the
2097 middle of things. Is that a family cemetery, civil war, or what?
2098
2099 Mr. Bowers - It is a family cemetery and that will be maintained. That is not
2100 a part of the project area, and that family will be given an access route. The routes within
2101 the facility will be such that the family can come and access that. We have not yet been
2102 able to have direct contact with any family members, and we'll certainly monitor who
2103 wants to get there and provide access as necessary, as required.
2104

05 Mr. Reid - Very good, thank you.
2106

2107 Mr. Green - Okay. So if the family wanted to move the remains you all
2108 would do that, help them with that?
2109

2110 Mr. Bowers - Yes. I mean, I've not contemplated that with my client to talk
2111 through what that would entail, but I can't see why they would not be amenable to the
2112 family -- what the state code requires is that folks be given access to that cemetery area
2113 and the cemetery itself will not be disturbed by the project. It will be retained as it is. I
2114 don't know what folks -- we are a lessee of this facility, so we've got the landowners who
2115 is actually the person who owns the rights of -- we're required to provide the access and
2116 to leave it undisturbed.
2117

2118 In many cases there's, I don't know what arrangements the family might want to make
2119 about when they get in and do those things if someone identified themselves, but yeah, I
2120 would think that the applicant would be more than happy to work with them however they
2121 wanted to do. Whether they wanted to just access that cemetery or whether they wanted
2122 to intern the remains and remove them elsewhere.
2123

2124 Mr. Green - But you all don't know how many remaining plots are there.
2125

2126 Mr. Bowers - It's an area about 30-foot-square in a brick wall, and there are
2127 30 to 40, I would say, gravestones showing. We've not done a -- you have to do a LIDAR
2128 survey to see what remains are in the ground. Not all remains are always headstone, or
2129 the headstones may have previously -- it's from the 19th century. It does not look like
2130 there's been any recent activity in that cemetery.
2131

2132 Mr. Reid - Is it being maintained?
2133

2134 Mr. Bowers - It's being cut now and again, but no. The landowner over the
2135 last years has not been doing anything to maintain it.
2136

2137 Ms. Harris - I noticed at condition nine they talk about the adverse impacts
2138 and significant historic property, and there's a report by Desmond Associates that we
2139 don't have a copy of.
2140

2141 Mr. Blankinship - It is in the file if you'd like a copy.
2142

2143 Ms. Harris - It is in the file?
2144

2145 Mr. Blankinship - Yes, ma'am.
2146

2147 Ms. Harris - Does that deal with what we're talking about like those grave
2148 sites?
2149

2150 Mr. Blankinship - Yes ma'am, in great detail.

2151
2152 Ms. Harris - And these panels are 20 feet tall, right?
2153
2154 Mr. Bowers - No, ma'am. They will not exceed 20 feet at the maximum
2155 extent, but in most applications they're usually about 15 to 18 feet at maximum tilt. They
2156 are done on steel posts that are driven into the ground like an I-beam, and then there is
2157 a set of racking that is installed, and the posts are in about six-foot increments along these
2158 lines, and the racking is tied to the posts. The panels themselves are about two-foot by
2159 six-foot, and they're installed sideways so as they turn they turn this way, and the
2160 clearance is -- minimum clearance is 18 inches off the ground, and sometimes it's as
2161 much as two foot.
2162
2163 You don't have to grade the ground completely flat. We try to go with the existing contours
2164 as much as possible. The variants that it allows is five-percent east to west, and 15
2165 percent north to south, so these arrays in order to generate enough energy in each
2166 particular string are 180 to 250 panels long. And then the wires loop long underneath of
2167 them and then each one is then underground collected into an inverter.
2168
2169 Those panels turn and over the course of the ground, your ground level, the panels will
2170 turn, and so the posts are maybe five or six feet high, the racking's maybe another six,
2171 eight inches. And then the panels on those, so you want the lowest point to be 18 inches.
2172 It could be as much as two foot, two and a half foot, and then you got your six-foot panel
2173 on top of that when it's at full tilt just at first thing in the morning and last thing in the
2174 evening.
2175
2176 And those are really about 10 or 12 feet, but because of the variations in the post heights
2177 that could get the 12 to 14-foot, 15-foot rate, we put a 20-foot on there just to be safe.
2178 The inverters themselves, about every 3000 panels you got to pull all that energy into an
2179 inverter, and the inverter is a box kind of like the transformer boxes you see out behind a
2180 Walmart or a shopping center. They're approximately 10, 12 feet by six or eight feet, and
2181 they can be as much as 14-foot tall. They're set on concrete pads, or some of these are
2182 built with footers on them that come and they're just set down in place.
2183
2184 And then sometimes some folks who are operators want to have fixed lights there at those
2185 sites so they could do repair work. Obviously, the best time to do a repair work on that is
2186 in the evening when you're not generating the power, so you don't have to shut down the
2187 power generation. And so it's not clear that folks do -- we do have lighting protections in
2188 the conditions if there were permanent posts. Most of them just have lights on a truck that
2189 they come out and fix the panels, but that was why we put the 20-foot limitation. Not
2190 because we're going to have the 20-foot high across there, but just to make sure we had
2191 something to tell people that we weren't building something 30 or 40 feet tall that it has
2192 that 20-foot limitation across the site.
2193
2194 Ms. Harris - And you have 71,000 of those?
2195
2196 Mr. Bowers - Panels, yes ma'am.

97
2198 Ms. Harris - Okay. I'm just trying to visualize.
2199
2200 Mr. Bowers - Yeah. It'll be about, you know, like I said, 90 to 100 acres of
2201 the 229-acre farm will be in panels, but 120 of the acres will be -- there's some other
2202 space -- thank you. This is the proposed layout that was submitted. That's what they're
2203 working through right now. In fact, some of the area in red - hang on a second. There is
2204 an area -- this is the cemetery we spoke of briefly. There is some area here that it was
2205 identified during the report that will not be disturbed at all. Panels have been removed
2206 from that area. But in the other areas you'll see that it covers pretty much the current open
2207 area that is under farmland, and then the areas on the south side of the railroad that fill in
2208 those -- the applicant will be using the altered area down in the very southeast corner of
2209 the project, because they had given up and will not have panels in the area of historic
2210 interest.
2211
2212 Ms. Harris - They have flat panels, horizontal panels or vertical panels?
2213
2214 Mr. Bowers - They are tracker panels.
2215
2216 Ms. Harris - I know they're going to tilt. I know.
2217
2218 Mr. Bowers - They're going to tilt. They're flat panels --
2219
2220 Ms. Harris - You say that about four times now. I just want to know if
2221 they're going to be flat or vertical?
2222
2223 Mr. Bowers - They may be six inches thick, and they're two by six, six long
2224 and about two wide, and then they are mounted next to each other that they go up and
2225 down.
2226
2227 Ms. Harris - So they are vertical, and they would tilt.
2228
2229 Mr. Bowers - They will come vertical.
2230
2231 Ms. Harris - Right, okay.
2232
2233 Mr. Bowers - They don't come fully vertical. There's no reason for them to
2234 go beyond the sun as it comes up over the axis, so they come up to about 80, 85 percent
2235 at most. They don't come full 90 percent. Maybe not even 80 percent, but they come to
2236 the highest angle to reach the aggregate zenith to the, if that's the right word, or angle to
2237 the horizon where the sun goes down.
2238
2239 Ms. Harris - Okay. Any questions from board members?
2240
2241 Mr. Johnson - Yes. Is this the largest renewable energy facility, especially in
2242 this county?

2243
2244 Mr. Bowers - It will be the first renewable energy facility of its type in
2245 Henrico. I think there are solar panels installed elsewhere, and I don't know, but they
2246 would be used to generate energy for the use on site. This will be the first one that is like
2247 this subject to a small generator interconnection agreement that delivers power to the
2248 grid.

2249
2250 No, this is not the largest of its kind in Virginia. As I mentioned, first question, there are
2251 probably 10 of these, 10 or more, of these 20-megawatt or less facilities already in
2252 operation in Virginia, and there is another 10 or so under construction and there's
2253 probably 40 of them in the permit stages across the Commonwealth.

2254
2255 There are much larger facilities. The one that is noteworthy is the 200 and, let's see, it's
2256 144 and 97, so it's a 241-megawatt facility that are two parts. The diminutive building
2257 down in Surry that will provide the power. That is sole sourced power dedicated to
2258 supplying the energy, renewable energy, to the Facebook facility that's being built in
2259 White Oak. That is the largest one in Virginia currently under construction. There are other
2260 large facilities in South Hampton Roads and in Accomac County, over on the Eastern
2261 Shore, there are 80 megawatt facilities that are dedicated to Amazon and Microsoft
2262 respectively. And there are other larger facilities that are being built throughout.

2263
2264 Mr. Johnson - How often would it be monitored, this facility?

2265
2266 Mr. Bowers - It is monitored 24/7 remotely. What happens is it's tied into the
2267 monitoring facility. Dominion maintains a center, actually I think it's out of North Carolina,
2268 I think it's done by Strata Solar that monitors all of Dominion's solar facilities and they
2269 watch it constantly to see if there's any fluctuation in the power levels, and if they do then
2270 they'll immediately send someone out to inspect the facility.

2271
2272 In terms of actual folks on site, it is expected that the maintenance will consist of cutting
2273 the grass. This will have grass seeded underneath all the panels, so cutting the grass to
2274 keep it from growing up the 18 inches to impinge the panels and other maintenance.
2275 Fixing the fence around it.

2276
2277 The facility will be completely fenced in that any electrical generation facility like this needs
2278 to be secure. And then if there is any damage to the panels, whether a malfunction of
2279 some sort or, you know, they're not working property, then they bolt out the individual
2280 panels in question and bolt in new ones.

2281
2282 Mr. Johnson - Okay. Would there be any monitoring as well to see if there is
2283 any reflection, especially for 295 or 64 right there, that wouldn't impact any of the ones
2284 on the facility?

2285
2286 Mr. Bowers - Yes. I mean, there's the ability for inspections to be done, but
2287 no, in terms of the design is such that the panels do not create reflective light. There are
2288 solar facilities immediately adjacent to airports. I have some family land up in New

2289 England, I fly in and out of Providence Airport, and literally right on the grounds the airport
2290 has solar panels that they have. If you are within, I think it's, a mile and a half or two miles
2291 of an airport there's an FAA process that you go through in registering and have them
2292 review the facility and get an FAA approval. That's not the case for this site, because
2293 there is not the distance to either RIC or the New Kent Airport is five, eight miles away.
2294 But universally these facilities that are close to airports have been approved by the FAA
2295 and do not create any problem for aircraft, or we would -- I would interpret that to apply
2296 also to the highway that's here next to the facility.
2297

2298 Mr. Johnson - Okay, thank you.
2299

2300 Ms. Harris - Okay. Any other questions? Mr. Bowers, and I know you will
2301 be sure that they -- you'll go by the rules regarding the fencing and setbacks and even
2302 consider landscaping.
2303

2304 Mr. Bowers - And we have been --
2305

2306 Ms. Harris - You don't have to specify that now, but I'm just saying --
2307

2308 Mr. Bowers - Yes, ma'am.
2309

2310 Ms. Harris - We know that you will --
2311

2312 Mr. Bowers - And we recognize that the board looks at more than those
2313 items. I apologize for that inadvertent, implicit restriction. I did not mean any restriction on
2314 your ability to regulate or staff's conditions.
2315

2316 Ms. Harris - That's okay.
2317

2318 Mr. Bowers - We did meet with the neighbors going door to door. Originally
2319 had a community meeting back in 2017. We've been back in touch with those folks and
2320 I've met with a couple of them within the last month and they are still in support of the
2321 project and are looking for what are -- when we were going to get in there and get it built.
2322

2323 Ms. Harris - All right. Thank you so very much. Any other questions? Okay.
2324 Anyone -- is there anyone who's in support of this application? If so, you need to come
2325 forth now. Is there anyone who's in oppose -- in opposition to this project? Okay. That
2326 concludes the public hearing and we need to vote on this. Okay, what is the pleasure of
2327 the board?
2328

2329 Mr. Johnson - I move that we approve the conditional use permit subject to
2330 the recommendations by the staff. The use has already been approved by the Planning
2331 Commission and Board of Supervisors, along with this board. The applicant has made a
2332 substantial investment in the project in reliance on these approvals. It is also not possible
2333 to get a project like this approved in two years, so they just need a little more time to get
2334 the plans approved and start construction.

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2379

Ms. Harris - Okay. Is there a second for this motion?

Mr. Bell - Second.

Ms. Harris - Been moved and properly seconded that we would approve conditional use permit number 24. Is there any discussion on the motion? All in favor of approval say aye. Opposed say no. Ayes have it.

After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Bell, the Board approved application **CUP2019-00024 BRIEL FARM SOLAR, LLC's** request for a conditional use permit pursuant to Section 24-116(d)(2) of the County Code to allow a renewable energy facility at 2701 Meadow Road (Parcel 842-716-0583) zoned Light Industrial District (M-1C) (Varina). The Board approved this request subject to the following conditions:

1. Only the improvements shown on the conceptual plan filed with the application shall be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements shall require a new conditional use permit.

2. Before beginning any clearing, grading, or other land disturbing activity, the applicant shall obtain approval of construction plans, including erosion and sedimentation plans as required by the Department of Public Works. This approval is subject to all conditions that may be placed on the construction plans by the Department of Public Works and the Department of Public Utilities.

3. Before beginning any clearing, grading, or other land disturbing activity, the applicant shall obtain approval of a detailed landscaping and lighting plan from the Planning Department. The plan shall provide screening at least equivalent to what is shown on the "Conceptual Plan for the Briel Farm Solar Project" by Draper Aden Associates, last revised March 20, 2017. Approved landscaping shall be installed prior to activation of the facility. All landscaping shall be maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season.

4. Hours of construction shall be limited to Monday through Saturday, 6:00 am to 6:00 pm. No construction shall take place on Sundays or national holidays.

5. The total height of the solar energy system, including panels and mounts, shall not exceed 20 feet above the ground when orientated at maximum tilt. This height limitation requirement shall not apply to the overhead crossing of the railroad, the facilities at the interconnection point, or the transmission lines from the interconnection point to the local utility power grid.

2380 6. All exterior lighting shall be shielded to direct light away from adjacent property and
2381 streets. Light fixtures shall not exceed 20 feet in height.

2382
2383 7. All electrical wiring shall be underground except for the overhead crossing of the
2384 railroad, the interconnection point, and the transmission lines to the local utility power
2385 grid.

2386
2387 8. Prior to the issuance of permits for installation of equipment, the applicant shall obtain
2388 approval of a plan for decommissioning the facility. The solar energy system shall be
2389 decommissioned and removed within 12 months after the facility ceases electricity
2390 generation for a continuous 12-month period. Decommissioning shall include removal of
2391 solar collectors, cabling, electrical components, any bases or footers, and all other
2392 associated items. The plan shall include a financial guaranty to insure the
2393 decommissioning will be completed at the applicant's cost.

2394
2395 9. During the construction and operation of the facility, the applicant shall cooperate with
2396 the Virginia Department of Historic Resources and the Henrico County Department of
2397 Recreation and Parks to identify, preserve, and interpret historical and cultural resources
2398 on the site, as recommended in the Treatment Plan for Avoidance, Minimization and
2399 Mitigation of Adverse Impacts to Significant Historic Property prepared by Dutton +
2400 Associates and dated February 2017.

2401
2402 10. Before the facility is energized, it shall be secured with a fence at least 6 feet in height.

2403
2404
2405 Affirmative: Bell, Green, Harris, Johnson, Reid 5
2406 Negative: 0
2407 Absent: 0

2408
2409
2410 Before we go to the variances, we're going to take a five or ten minute break.

2411
2412 Mr. Blankinship - And let me just announce APL2019-00005 has been
2413 withdrawn and VAR2019-00015 has been deferred, so if you've been waiting for those, I
2414 apologize.

2415
2416 [A Break was Called]

2417
2418 Ms. Harris - We are reconvening. We move now to the variances.

2419
2420 **VAR2019-00014 LIBERTY HOMES OF VIRGINIA, INC.** requests a variance
2421 from Section 24-95(b)(5) of the County Code to build a one-family dwelling at 213 N
2422 Virginia Avenue (BUNGALOW CITY) (Parcel 817-728-0695) zoned One-Family
2423 Residence District (R-3) (Varina). The lot width requirement and total lot area requirement
2424 are not met. The applicant proposes 6,500 square feet lot area and 50 feet lot width,

2425 where the Code requires 8,000 square feet lot area and 65 feet lot width. The applicant
2426 requests a variance of 1,500 square feet lot area and 15 feet lot width.

2427
2428 Mr. Blankinship - Would everyone who intends to speak to this case please
2429 stand and be sworn in. Raise your right hands, please. Do you swear the testimony you're
2430 about to give is the truth, the whole truth, and nothing but the truth, so help you God?
2431 Thank you. Mr. Gidley.

2432
2433 Mr. Gidley - Thank you, Mr. Secretary, members of the board. The subject
2434 property consists of two lots in the Bungalow City subdivision. Taken together these two
2435 lots have 6,500 square feet of lot area and 50 feet of lot width. At one point they were
2436 zoned R-4, single-family residential, and they were buildable. In 1960, however, the
2437 property was rezoned to R-3. And the R-3 district requires 8,000 square feet of lot area
2438 and 65 feet of lot width. As a result, the property is no longer buildable.

2439
2440 In evaluating this request for a variance to allow a home to be built on the property the
2441 threshold test, the one that would appear to be applicable concerns whether the property
2442 is unreasonably restricted. And, in that case, the two lots have been sold as a single unit
2443 since 1937 and it's noted the 1960 rezoning of the property rendered the lots unbuildable,
2444 so as a result, this threshold test of being unreasonably restricted would appear to be
2445 met.

2446
2447 In looking at the five subtests, as you're aware the code of Virginia has five subtests, all
2448 of which must be met in order for the variance to also be granted. Staff believes most of
2449 these subtests are met, however we are concerned the second subtest dealing with
2450 detrimental impact for a nearby property is not met, and so I'll focus my review on that.

2451
2452 These are the homes across the street. As you can see here there are three homes, all
2453 three were constructed in 2007 by Elder Homes, and they bought lots or portions of lots
2454 to create three buildable lots that also met the requirements of the zoning ordinance. And
2455 the results is you have three, you know, nice homes on decent sized property. In contrast,
2456 if you look across the street, this is the subject property here, the home immediately to
2457 the south was also constructed in 2007, and that was done following the approval of a
2458 variance. At the time staff noted that the variance would not be necessary if the parcel
2459 had been combined with the property just to the north here.

2460
2461 On the other side of the subject property is this parcel here at 217 North Virginia Avenue.
2462 It actually contains four lots, and the applicant for today's variance, Liberty Homes, also
2463 constructed this home, and certainly what they could have done is combined all of these
2464 lots here to create two buildable properties with homes spaced at a reasonable rate of
2465 distance between them, but they did not do that, and as a result they are now coming and
2466 saying, "We want to have a variance for an additional home here on yet another sub-
2467 standard lot." And then that in effect is going to squeeze it in between these two homes
2468 right here, by allowing another substandard lot to be developed, which would further
2469 erode the character of the neighborhood and its relative openness. And staff is concerned

2470 that would be a detrimental impact on nearby property, specifically the value of nearby
2471 homes.

2472
2473 I think when people purchase a property and purchase a home they have, you know, a
2474 reasonable expectation that future development in that neighborhood will adhere to the
2475 zoning ordinance and will follow the overall development pattern in the neighborhood,
2476 and to the extent this does not, but yet squeezes in an additional home, I think that is a
2477 concern. Here's the subject property here and here's a closeup of it.

2478
2479 So, in conclusion, once this property was rezoned from R-4 to R-3, that rendered it a 1960
2480 unbuildable, so the threshold test of being unreasonably restricted would appear to be
2481 met. Staff, however, is concerned one of the five required subtests has not been met, in
2482 that this would have a detrimental impact on nearby property and the property values and
2483 the development pattern of that neighborhood. And because this subtest is not met, staff
2484 is in a position of having to recommend denial of this request. This concludes my
2485 presentation and I'll be happy to answer any questions you may have. Thank you.

2486
2487 Ms. Harris - Thank you. Are there any questions from board members?
2488 Thank you, Mr. Gidley.

2489
2490 Mr. Gidley - Thank you, ma'am.

2491
2492 Ms. Harris - Will the applicant please come forth, please.

2493
2494 Mr. Tuthill - Hello. My name is Shawn Tuthill, T-U-T-H-I-L-L.

2495
2496 Ms. Harris - Okay.

2497
2498 Mr. Tuthill - The property is owned by an estate and the executor of the
2499 estate contacted us about purchasing the property. They know we build other properties,
2500 other homes, in the neighborhood and have others in the neighborhood under
2501 construction. In doing our due diligence on it we learned that the requirements were not
2502 met for size, and we also learned that the property next door was granted a variance,
2503 which is the exact same size as this parcel, so we're kind of just going through the motions
2504 here to see if it can be a buildable lot.

2505
2506 I don't see the lot being used for anything else. Like the gentleman said here. And that's
2507 pretty much it.

2508
2509 Ms. Harris - Okay. Are there questions of Mr. Tuthill?

2510
2511 Mr. Johnson - That lot, I was out there looking, this home that you plan on
2512 building there, are you going to 24 feet on that?

2513
2514 Mr. Tuthill - Yeah -- he's going to pull it up.
2515

2516 Mr. Johnson - Yes. That lot size, the home almost takes up that whole
2517 segment of land for --
2518
2519 Mr. Tuthill - It will take up half of it. It is relatively, and I don't know the
2520 exact size of the house next door, but I would imagine it would be the same size as the
2521 home next door. That is the same -- on the same sized lot.
2522
2523 Mr. Johnson - And I noticed that the homes on each side, that they're fenced
2524 when they put that in are those on the line?
2525
2526 Mr. Tuthill - As far as I know.
2527
2528 Mr. Johnson - Each one of the houses? With that there were no -- do you
2529 have a problem with a driveway on that -- ?
2530
2531 Mr. Tuthill - The proposed plot was submitted, if we can --
2532
2533 Mr. Johnson - And looking at that slide, is that 10 feet, or less?
2534
2535 Mr. Tuthill - Yes. Typically, the driveways would be anywhere from 10 to
2536 14 feet wide.
2537
2538 Mr. Johnson - I see 10 feet there.
2539
2540 Mr. Tuthill - That's, yes. It's 10 feet to the corner of the house and then the
2541 dotted line showing the driveway goes a little bit in front of the house. So anywhere from
2542 10 to 14 feet wide, which is enough to park a single car anyway. Again, I'd venture a
2543 guess that it's the same size and dimensions as the house next door.
2544
2545 Ms. Harris - Now the reports said that the owners tried to acquire two --
2546 some of the lot from the house 217 and they were unsuccessful. Are you familiar with
2547 that?
2548
2549 Mr. Tuthill - We purchased 217, which I believe is the house to the left,
2550 from, I'm drawing a blank on the name, but I think the Cosby's own the house, the large
2551 parcel in the back, and they sold us those parcels and we built that home. At that time
2552 this parcel owned by somebody else, was not available for purchase.
2553
2554 Ms. Harris - So you don't know if recently they tried to acquire part of this?
2555
2556 Mr. Tuthill - I do not know that.
2557
2558 Ms. Harris - Okay.
2559
2560 Mr. Johnson - Also would be, with that lot, if the house was not 24 feet but
2561 somewhat smaller, what about that situation?

2562 Mr. Tuthill - Twenty-four is about as narrow as we build, but we could
2563 certainly look into a new house plan if that's what would appease the board.
2564
2565
2566 Mr. Green - That lot is the same size as the lot beside it, isn't it?
2567
2568 Mr. Tuthill - I haven't seen the survey but doing an area search on the GIS
2569 system they both showed 6,500-square-foot lots.
2570
2571 Mr. Green - Do we have a picture of that house beside it?
2572
2573 Mr. Tuthill - This is right there.
2574
2575 Mr. Johnson - But what I was looking at was the fence in the back, basically,
2576 when it occurs it has a whole lot more area to the side. So that's what I was asking was
2577 that the fence line.
2578
2579 Mr. Tuthill - I can't attest to the dimensions from the fence to the house on
2580 that property.
2581
2582 Ms. Harris - This side definitely was not as narrow as the one -- as the
2583 subject property that we're considering today. Because I drove by there and it's like this
2584 lot that we are considering today is tiny, and you really have to -- this picture doesn't do
2585 justice to it, but when you compare it to the adjacent properties, you're going to have to
2586 squeeze a house in there, and that neighborhood is not one that -- where the houses
2587 have followed that pattern. Some of the neighbors have four, like I said, four lots. And
2588 they're built and they're built well, you know, they're built well. The neighborhood is, to
2589 me, I think I only saw one lot in the entire block that was narrower, and that house was in
2590 disrepair, so I imagine somebody's going to tear that down.
2591
2592 Mr. Johnson - Right.
2593
2594 Mr. Green - So is it your assessment that the house is too big to be built
2595 on, or the lot is just too small?
2596
2597 Ms. Harris - The lot size is just too small.
2598
2599 Mr. Johnson - The lot is narrow.
2600
2601 Ms. Harris - As the county's report said, you're going to have to - it's going
2602 to be very -- you have to squeeze a house into that.
2603
2604 Mr. Green - Alright, just looking at the aerial, the two look similar.
2605
2606 Ms. Harris - It's just that they have more, -- . This doesn't look like the
2607 picture we just saw at all.

2608
2609 Mr. Johnson - Right, yes.
2610
2611 Ms. Harris - Okay. Are any other questions -- are there any more questions
2612 for Mr. Tuthill? Thank you for coming in.
2613
2614 Mr. Tuthill - Sure.
2615
2616 Ms. Harris - Is there anyone who supports this request? Is there anyone
2617 who's opposed to this request? Please come forth and think you were sworn in, were you
2618 not?
2619
2620 Mr. Blankinship - Yes, she was.
2621
2622 Ms. Harris - Okay. Give us your name, spelling your last name, please.
2623
2624 Ms. Jackson - My name is Tanisha Jackson, my last name is Jackson, J-A-
2625 C-K-S-O-N.
2626
2627 Ms. Harris - Okay. Let us know why.
2628
2629 Ms. Jackson - I'm not in opposition to building. I have a great concern, and it
2630 is the same concern as the county, and that is not meeting that one of the five subsets
2631 that were already mentioned.
2632
2633 In an effort not to repeat what everyone says the setback of the home, the driveway, the
2634 width, when you drove down this street you can see you can barely get two cars passing
2635 each other on each side. So, like, the representative from Liberty Homes mentioned that
2636 it's enough for a one-car, but if it's going to be set back or even extended where it can
2637 drive around the house like the house next to it where there's more cars that can actually
2638 fit in the driveway, because there's no street parking. We struggle already, and if we have
2639 a gathering it's even more challenging at the end of the block. So you've already
2640 addressed my concerns and I have the same concern as you -- as a resident.
2641
2642 Mr. Blankinship - And you live almost directly across the street?
2643
2644 Ms. Jackson - I live across the street to the right. And so, I live to the right.
2645 Yes, that's my house.
2646
2647 Ms. Harris - What's your address?
2648
2649 Ms. Jackson - 214 North Virginia Avenue.
2650
2651 Mr. Green - Do we have an aerial?
2652
2653 Ms. Jackson - Yes, that's my property.

2654 Mr. Green - So you just think that that lot is too small to build on?

2655

2656

2657 Ms. Jackson - Yes. I was really curious about the size of the home and, of

2658 course, it fitting on the land. So, I mean, if Liberty Homes wants to consider, you know,

2659 another plan for the home, then maybe this can be postponed, and you'll review it again.

2660 That's up to the zoning board. But that would be my suggestion. And also, with the

2661 consideration of the county and them re-evaluating and meeting the test.

2662

2663 Mr. Green - I don't know about you, but in my neighborhood I don't want a

2664 smaller home. I want a home the size of mine or bigger, because I want to keep my

2665 property value. And if someone came into my neighborhood wanting to build a smaller

2666 home, I would have a real problem with that, because it would lower, I would think, would

2667 lower my property value as well as the aesthetic look of the neighborhood. So, I mean,

2668 that is -- are you just being nice, or do you --?

2669

2670 Ms. Jackson - No. I agree with you. However, the end of this street it's a lot

2671 of new homes. Like they said, they've played a role in that. But if you start driving down

2672 North Virginia Avenue from Nine Mile Road, a lot of those homes are older homes, and

2673 they are sized and shaped in different manners. And so that is why I made that comment.

2674

2675 Mr. Green - But your neighborhood has all got basically new --- .

2676

2677 Ms. Jackson - But, I mean, that is my neighborhood. I'm just on one part of

2678 the block, and I understand what you're saying, but when they look at property values of

2679 the house it's not just going to be on my street, it's going to be within a certain mile radius

2680 as far as evaluation and property values.

2681

2682 Ms. Harris - And some of those homes they're really sprawled out. You

2683 know, I can think of two in particular. They have a garage and I don't know where else,

2684 but, I mean, it's really laid out. So this lot is tiny. Compared even to the neighborhood it's

2685 tiny.

2686

2687 Ms. Jackson - Yes, it is. It is.

2688

2689 Ms. Harris - Are there any other questions of Ms. Jackson? Thank you for

2690 coming in.

2691

2692 Ms. Jackson - Thank you.

2693

2694 Ms. Harris - Is there anyone else who opposes this application? Mr. Tuthill,

2695 do you want to come back and give a rebuttal?

2696

2697 Mr. Tuthill - We would certainly be open to maybe a different house plan.

2698 Maybe not a smaller house plan, but a narrower house plan, if that would appease the

2699 neighbors.

2700
2701 Mr. Green - What's the price of the -- what would you sell that house for?
2702
2703 Mr. Tuthill - Hundred and eight-five, hundred and ninety.
2704
2705 Mr. Johnson - Does that fit the neighborhood comps?
2706
2707 Mr. Tuthill - The house we built next door, I have it right here, sold for 185
2708 in, sorry, the house to the right is 185 and that was in 2008.
2709
2710 Ms. Harris - That was 217, right?
2711
2712 Mr. Tuthill - No, no, no. sorry, the house to the --- .
2713
2714 Ms. Harris - This house right here.
2715
2716 Mr. Tuthill - We didn't build that house.
2717
2718 Ms. Harris - You did not build which one?
2719
2720 Mr. Tuthill - That house to the right.
2721
2722 Ms. Harris - Right.
2723
2724 Mr. Tuthill - I didn't bring the sales price of the house to the left.
2725
2726 Ms. Harris - Right. But did you all --
2727
2728 Mr. Tuthill - But the other houses we built in the neighborhood which have
2729 been half a dozen here in the last two years have also all sold around that 185 to 200
2730 number depending upon the size of the house.
2731
2732 Ms. Harris - Right. And we don't have limited land in Varina. Maybe some
2733 neighborhoods, but for the most part, you know, we have lots of land in Varina, that's why
2734 so many cases we had today are in Varina. Yes. Okay, is there anything else you wish to
2735 say? Thank you so very much for coming in. Okay, let's go to the vote on this particular
2736 variance. What is the pleasure of the board?
2737
2738 Mr. Johnson - I move that we deny this plan. Although there appears to be a
2739 hardship that exists at the time of the ordinance was adopted, Liberty Homes had the
2740 opportunity to correct the situation when they built the house at 217 North Virginia
2741 Avenue.
2742
2743 So in that instance the hardship was created by the applicant, and the proposed home
2744 would also have a detrimental impact to the neighbor, because almost all of the houses
2745 in the block meets the requirement of the 65-foot. Finally, this problem is of a general and

re-occurring nature, and if the board of supervisors want lots like this to be buildable, they should address it by amending the code.

Ms. Harris - Okay. Is there a second?

Mr. Green - Second.

Ms. Harris - Okay. It's been moved and properly seconded that we deny variance 14. Is there any discussion on the motion? All in favor of denial say aye. Those opposed say no. The ayes have it and this has been denied.

After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr. Green, the Board **denied** application **VAR2019-00014 LIBERTY HOMES OF VIRGINIA, INC.'s** request for a variance from Section 24-95(b)(5) of the County Code to build a one-family dwelling at 213 N Virginia Avenue (BUNGALOW CITY) (Parcel 817-728-0695) zoned One-Family Residence District (R-3) (Varina). The lot width requirement and total lot area requirement are not met.

Affirmative:	Bell, Green, Harris, Johnson, Reid	5
Negative:		0
Absent:		0

Variance 16.

Mr. Blankinship - Yes, ma'am. Fifteen has been deferred. Variance 2019 number 16, Bakar Homes, LLC.

VAR2019-00016 BAKAR HOMES, LLC requests a variance from Section 24-95(b)(5) of the County Code to build a one-family dwelling at 8714 Midway Road (WESTHAMPTON SETTLEMENT) (Parcel 751-740-8708) zoned One-Family Residence District (R-3) (Tuckahoe). The lot width requirement is not met. The applicant proposes 50 feet lot width, where the Code requires 65 feet lot width. The applicant requests a variance of 15 feet lot width.

Mr. Blankinship - Would everyone who intends to speak to this case please stand and be sworn in? Raise your right hands, please. Do you swear the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God? Thank you. Mr. Madrigal.

Mr. Madrigal - Thank you Mr. Secretary, Madam Chair, members of the board. Before you is a request to build a one-family dwelling. The subject property is in the Westhampton Settlement subdivision, which was established in 1940. The subject lot is 50 feet wide and totals 8,200 square feet in area. It is improved with a modest one-

2791 story, 622-square-foot dwelling constructed in 1941. The applicants purchased the
2792 property in March of this year.

2793
2794 The existing home is in poor physical condition and the property has an extensive history
2795 of zoning and building code violations dating back to 2008. County records indicate that
2796 the home has been vacant since 2009 and has not been maintained since then.

2797
2798 It is the applicant's intent to demolish the home and replace it with a new, two-story, 1,700-
2799 square-foot dwelling. At the time the lot was created the county did not have any minimum
2800 lot size and lot width requirements. In July of 1945 the county adopted specific lot area
2801 and lot width requirements, which resulted in the lot's being nonconforming. The owners
2802 have a right to continue the non-conforming use of the property, however if they voluntarily
2803 demolish the existing home, they lose the non-conforming rights to the use and must
2804 obtain a variance in order to replace the home.

2805
2806 With respect to the threshold question the subject lot was created at a time when the
2807 county did not have minimum lot area and lot width requirements. Those standards were
2808 later adopted, which rendered the lot nonconforming with respect to lot width. Because
2809 the lot is nonconforming, the home can be enlarged or structurally altered, but it cannot
2810 be reconstructed or substituted.

2811
2812 Because of the home's poor physical conditions, its small size, and its skewed placement
2813 on the lot, it would be difficult and burdensome for the applicant to retrofit the existing
2814 dwelling. The applicant would prefer to demolish the home and replace it with a new
2815 dwelling that is functionally up-to-date and architecturally compatible with the surrounding
2816 neighborhood. The lot's non-conforming status creates a hardship because it prohibits
2817 the replacement of a deteriorated home, an obsolete structure that is an eyesore for
2818 neighbors and the community.

2819
2820 Relative to the five subtests, item number one, good faith purchase, the applicant
2821 purchased the property in March of this year with the intent of replacing the home. A
2822 governmental act rendered the property nonconforming, creating an obstacle for the
2823 replacement of the home. The applicant played no role in the creation of the hardship.

2824
2825 Item number two, substantial detriment, the current condition of the property creates a
2826 nuisance to adjacent property in the neighborhood. The home has been a security
2827 concern for neighbors since 2009. Granting the variance will facilitate the removal of a
2828 derelict dwelling and its replacement with a modern home bolstering property values,
2829 adding to the visual appeal of the neighborhood, and enhancing community pride.

2830
2831 Item number three, general recurring nature. Of the 14 homes on block 5 of the
2832 subdivision, 6 are in 50-foot-wide lots and 8 are in combined lots that meet or exceed the
2833 exception standards. There are also two vacant 50-foot-wide lots. At this time, however,
2834 a legislative solution to the problem does not appear practical. Although the situation is
2835 of a general recurring nature, a variance is the only available relief. Items four and five
2836 are satisfied as outlined in the staff report.

337
2838 In conclusion, the property was created in 1940, prior to the adoption of county standards
2839 for lot area and lot width. The existing home was constructed in 1941 and has been
2840 occupied -- had been occupied until 2009. Since then the home has been vacant and has
2841 been a nuisance, creating security concerns for neighbors and the community. Due to
2842 neglect, the property and the home have significantly deteriorated. The lot's
2843 nonconforming status creates a hardship that prohibits the removal and replacement of
2844 the home. Because of the severe nature of disrepair, it would be difficult and burdensome
2845 to renovate the existing dwelling.

2846
2847 Absent a variance the property is unreasonably restricted by code and limited by the
2848 physical condition of the home. The neighborhood would benefit from replacing the home
2849 with a new and modern dwelling that meets today's expectations, current market
2850 demands, code requirements, and would enhance the visual appeal of the neighborhood.
2851 Based on the facts of the case, staff recommends approval subject to conditions. That
2852 concludes my presentation. I'll be happy to answer your questions.

2853
2854 Ms. Harris - Okay, thank you. Are there any questions of Mr. Madrigal?
2855 Thank you so very much.

2856
2857 Mr. Madrigal - Thank you.

2858
2859 Ms. Harris - Would the applicant come forth please, and give us your
2860 name, spelling your last name.

2861
2862 Mr. Ali - Good morning everyone. My name is Asmat Ali. Last name is
2863 Ali, A-L-I.

2864
2865 Ms. Harris - And Mr. Ali, what is it that you desire?

2866
2867 Mr. Ali - We bought this place and are going to build a nice home.

2868
2869 Ms. Harris - And you did submit the plans for the home, so we have copies
2870 of that.

2871
2872 Mr. Ali - Yes.

2873
2874 Ms. Harris - Okay. Anything else you wish to add?

2875
2876 Mr. Ali - Not really. Just want to upgrade the neighborhood and it will
2877 look nice.

2878
2879 Ms. Harris - Okay. Are there questions for Mr. Ali?

2880
2881 Mr. Reid - I think your plans for a new home there are wonderful. That
2882 house is really an eyesore. I drove the length of Midway Road there. A lot of nice homes

2883 down that street. The lawns are well maintained, the houses are well maintained. It's
2884 certainly an eyesore that's existed for a long time.

2885
2886 Mr. Green - I agree.

2887
2888 Ms. Harris - Any other questions or comments for Mr. Ali?

2889
2890 Mr. Ali - No. Just that we're looking for a blessing from you guys in
2891 which way we can start construction and build up the neighborhood again.

2892
2893 Ms. Harris - Thank you for coming in.

2894
2895 Mr. Ali - You're welcome. Thank you.

2896
2897 Ms. Harris - Is there anyone who supports this application?

2898
2899 Mr. Klemm - Hi, my name is Andy Klemm, K-L-E-M-M. Mr. Reid was right,
2900 it's an eyesore. What we tried to do in order to be in compliance is to purchase part of the
2901 lot next door. I think it is a 75 or 100-foot lot next to it, to the right. And it's maybe hard to
2902 see in these pictures.

2903
2904 Ms. Harris - Mr. Klemm, can you use your mic?

2905
2906 Mr. Klemm - Okay. Here we go.

2907
2908 Ms. Harris - Okay, thanks.

2909
2910 Mr. Klemm - And so at first I contacted the owner and I did not get a
2911 response, and then we had actually the person that sold us the property knowing the
2912 neighbor a little bit better approach him and they said, no they absolutely don't want to do
2913 it. Then that's why we are requesting a variance today.

2914
2915 Ms. Harris - All right, so Mr. Ali owns the property now.

2916
2917 Mr. Klemm - Yes.

2918
2919 Ms. Harris - Okay. And you are not a contractor or anything?

2920
2921 Mr. Klemm - I'm a real estate broker.

2922
2923 Ms. Harris - Oh, a real estate broker, okay, thank you. Are there any
2924 questions of Mr. Klemm? Okay, on the plans that you submitted to us, Mr. Klemm --

2925
2926 Mr. Blankinship - Or Mr. Ali.

2927

28 Ms. Harris - The plans that were submitted to us, did the builder consider
2929 the side setbacks, they're going to give us the proper --?
2930

2931 Mr. Klemm - Yes. I think we are. Let me see. Yeah, here we're at nine feet
2932 right now and so to my understandings of the code, I'm not a builder, that fits. And we
2933 also have the distance from the road.
2934

2935 Ms. Harris - Yes, I see it. Thank you so much. Okay. Any questions before
2936 we --? Thank you so much for coming in. Is there anyone who is supporting this
2937 application or anyone in opposition to this application? Okay. I think that concludes this
2938 particular case. We are ready to vote. What is the pleasure of the board?
2939

2940 Mr. Reid - I move that we approve the variance subject to the conditions
2941 recommended by the staff. This property has been used for a dwelling since 1941, it's
2942 certainly in terrible, terrible shape. The hardship was created when the county changed
2943 the zoning ordinance in 1960 and the applicant wants to demolish an old home that's
2944 falling down, replace it with a new home that will contribute to the neighborhood. It would
2945 be unreasonable to prevent them from doing this. The other subtests are met as stated
2946 in the staff report.
2947

2948 Mr. Green - Second.
2949

2950 Ms. Harris - Okay. It's been moved and properly seconded that we
2951 approve variance 16. Is there any discussion on the motion? All in favor of this approval
2952 say aye. Opposed say no. Ayes have it and it's been approved.
2953

2954 After an advertised public hearing and on a motion by Mr. Reid, seconded by Mr. Green,
2955 the Board approved application **VAR2019-00016 BAKAR HOMES, LLC's** request
2956 for a variance from Section 24-95(b)(5) of the County Code to build a one-family dwelling
2957 at 8714 Midway Road (WESTHAMPTON SETTLEMENT) (Parcel 751-740-8708) zoned
2958 One-Family Residence District (R-3) (Tuckahoe). The lot width requirement is not met.
2959 The applicant proposes 50 feet lot width, where the Code requires 65 feet lot width. The
2960 applicant requests a variance of 15 feet lot width. The Board approved this request
2961 subject to the following conditions:
2962

2963 1. This variance applies only to the lot width requirement for one dwelling only. All other
2964 applicable regulations of the County Code shall remain in force.
2965

2966 2. Only the improvements shown on the plot plan and building design filed with the
2967 application may be constructed pursuant to this approval. Any additional improvements
2968 shall comply with the applicable regulations of the County Code. Any substantial changes
2969 or additions to the design or location of the improvements will require a new variance.
2970

2971 3. Clearing, grading, or other land disturbing activity shall not begin until the applicant has
2972 submitted, and the Department of Public Works has approved, an environmental
2973 compliance plan.

3019 were, by having one home facing the rear yard of an adjacent home. So that is a condition
3020 in your staff report.

3021
3022 In evaluating this request, one of the general tests appears to be met, and that is, is the
3023 property unreasonably restricted. Absent of variance it cannot be developed for a
3024 residence, so that test would appear to be met.

3025
3026 As far as the five subtests are concerned, staff believes all five of the subtests are met.
3027 Unlike the last case, or the two cases ago. In this case, the lot is only two feet shy of the
3028 front building line and there is plenty of room in between these homes. It would fit in nicely
3029 and maintain the general space in between the homes that you see out there now. So
3030 staff believes all five subtests are met.

3031
3032 So, in conclusion, because the property is only two feet shy of the required lot width, a
3033 home may not be constructed on it absent of variance. This appears to be an
3034 unreasonable restriction. The decision to take the lot width along the road frontage was
3035 made roughly 50 years ago, and that's certainly understandable. All other aspects of the
3036 zoning ordinance appear to be met here, including lot area and setbacks.

3037
3038 Staff does not anticipate any substantial detrimental impact if this request were granted.
3039 As a result, we recommend approval of this request subject to the conditions in your staff
3040 report. This concludes my presentation and if you have any questions, I would be happy
3041 to answer this. Thank you.

3042
3043 Ms. Harris - Are there any questions of Mr. Gidley?

3044
3045 Mr. Johnson - So the mistake for the 150 feet was created, what 50 years
3046 ago, that was by the commission?

3047
3048 Mr. Gidley - The property owner at the time would have divided it from the
3049 original 29 acres into 10 parcels back in the 1960's.

3050
3051 Mr. Johnson - Okay.

3052
3053 Mr. Gidley - And at the time they did that, evidently, what they were
3054 thinking is, "I need 150 feet, okay, I have 150 feet here." But maybe they didn't realize is
3055 we actually measure lot width at the front setback line, or at the time where the home is
3056 actually placed. And, you know, that's understandable, they may not have known that
3057 difference.

3058
3059 Mr. Johnson - Okay.

3060
3061 Ms. Harris - Are there other questions of Mr. Gidley? Thank you so very
3062 much.

3063
3064 Mr. Gidley - Thank you, ma'am.

3065
3066 Ms. Harris - We'll need the applicant to come forth, please. Give us your
3067 name, spelling your last name.
3068
3069 Mr. Rennolds - Hi there. My name's Ned Rennolds, R-E-N-N-O-L-D-S.
3070 Simply, I'm seeking approval of a variance to build a modest single-family dwelling on this
3071 lot.
3072
3073 Ms. Harris - Okay. Anything that you want to add?
3074
3075 Mr. Rennolds - No. We're close, almost there.
3076
3077 Mr. Blankinship - I have one question Madam Chair. Do you have a problem
3078 with the 100-foot setback?
3079
3080 Mr. Rennolds - No.
3081
3082 Mr. Blankinship - I believe that was drafted before this plat was going --
3083
3084 Mr. Rennolds - Yes.
3085
3086 Mr. Blankinship - The plat looks like it would put it about 105, so you'd have to
3087 move it forward a little bit from the --
3088
3089 Mr. Rennolds - Sure.
3090
3091 Mr. Blankinship - But that's not based on a septic system or anything?
3092
3093 Mr. Rennolds - No.
3094
3095 Mr. Blankinship - You'd still be able to work around it.
3096
3097 Mr. Rennolds - Yes, absolutely.
3098
3099 Ms. Harris - Okay. Any questions of Mr. Rennolds?
3100
3101 Mr. Johnson - So you looked at the conditions of approval then?
3102
3103 Mr. Rennolds - Yes, yes.
3104
3105 Mr. Johnson - Okay, and that include that 100 feet setback then.
3106
3107 Mr. Rennolds - Right. No problem there.
3108
3109 Mr. Green - Okay.
3110

3111 Ms. Harris - Are there any other questions? Thank you, Mr. Rennolds.

3112
3113 Mr. Rennolds - Thank you.

3114
3115 Ms. Harris - Anyone who supports this application and you wish to speak?
3116 Is there anyone who opposes this application and you wish to speak? If not, what is the
3117 pleasure of the board.

3118
3119 Mr. Johnson - Madam Chair, I move that we approve the variance subject to
3120 the conditions recommended by the staff, and when the property was cut off they left that
3121 150 feet frontage, and they probably thought that that met the requirements for their 150-
3122 foot lot width. Both the adjoining lots are developed, and they cannot be reduced, because
3123 -- and also there's no way to add to the property. Without the variance there is not a
3124 reasonable use for the property, and the hardship was not created by the applicant for
3125 the variance. And a dwelling on this lot would not have a detrimental impact on the
3126 neighbors. And other tests are met and stated in the staff report.

3127
3128 Ms. Harris - Okay, is there a second?

3129
3130 Mr. Green - Second.

3131
3132 Ms. Harris - Been moved and properly seconded that we approve this
3133 variance number --

3134
3135 Mr. Blankinship - Seventeen

3136
3137 Ms. Harris - Seventeen, okay. Any questions? It's been proper motioned.
3138 All in favor of approval say aye. Opposed say no. Ayes have it and so ordered.

3139
3140 After an advertised public hearing and on a motion by Mr. Johnson, seconded by Mr.
3141 Green, the Board approved application **VAR2019-00017 EDMUND RENNOLD'S** request
3142 for a variance from Section 24-94 of the County Code to build a one-family dwelling at
3143 323 Hanover Road (Parcel 830-722-1340) zoned Agricultural District (A-1) (Varina). The
3144 lot width requirement is not met. The Board approved this request subject to the following
3145 conditions:

3146
3147 1. This variance applies only to the lot width requirement for one dwelling only. All other
3148 applicable regulations of the County Code shall remain in force.

3149
3150 2. Only the improvements shown on building design filed with the application may be
3151 constructed pursuant to this approval. Any additional improvements shall comply with the
3152 applicable regulations of the County Code. Any substantial changes or additions to the
3153 design or location of the improvements will require a new variance.

3154
3155 3. The dwelling shall be set back no more than 100 feet from the right-of-way of Hanover
3156 Road.

3157
3158 4. A building permit must be approved by June 25, 2021, or this variance will expire. If the
3159 building permit is cancelled or revoked because it was not diligently pursued, this variance
3160 will expire at that time.
3161

3162
3163 Affirmative: Bell, Green, Harris, Johnson, Reid 5
3164 Negative: 0
3165 Absent: 0
3166

3167
3168 Ms. Harris - We have a couple more things. One is the minutes and one is
3169 a correspondence. Let's look at the minutes going by the agenda. Are there any
3170 corrections to the minutes we need to address?
3171

3172 Mr. Johnson - I motion that we approve the minutes as listed.
3173

3174 Ms. Harris - Okay, is there a second?
3175

3176 Mr. Bell - Second.
3177

3178 Ms. Harris - Okay. It's been moved and properly seconded that we will
3179 approve the minutes as presented. Are there any questions on the motion? All in favor of
3180 the approval say aye. Opposed say no. Ayes have it.
3181

3182 On a motion by Mr. Johnson, seconded by Mr. Bell, the Board **approved the minutes of**
3183 **May 23, 2019.**
3184

3185
3186 Affirmative: Bell, Green, Harris, Johnson, Reid 5
3187 Negative: 0
3188 Absent: 0
3189

3190
3191 Ms. Harris - Let's look at the letter that we received regarding last month's
3192 variance number 12.
3193

3194 Mr. Johnson - Yes.
3195

3196 Ms. Harris - Let's look at this letter. Okay, the letter comes from a Mark
3197 Coston and Jamal Sims, and so we do need to have a public hearing to address this. If
3198 you take out the letter, Mr. Blankinship, you want to swear --
3199

3200 Mr. Blankinship - Are you Mr. Coston or Mr. Sims? Come on down and tell us
3201 what your --
3202

3203 Ms. Harris - Are you going to swear him in.
3204
3205 Mr. Blankinship - Okay it's not actually a public hearing, so he doesn't have to
3206 be sworn in.
3207
3208 Ms. Harris - This is not a public hearing.
3209
3210 Mr. Coston - Mark Coston, C-O-S-T-O-N.
3211
3212 Ms. Harris - Hi Mr. Coston.
3213
3214 Mr. Coston - I was before you guys on the 23rd of May for a variance. I
3215 have a lot that has 55-foot in Varina of road frontage. It opens up into two acres like a flag
3216 lot, and you guys gave me a variance for the 55 foot and to build a 1,400-square-foot
3217 house. Well, lo and behold I go over there and put in a driveway and cleaned it up a little
3218 bit and Mr. Sims comes along and wants to purchase the lot from me and he wants to
3219 build a 3800-square-foot house. Which, you know, I live across the street, I have no
3220 problem with them building a little bit larger house and increasing the property values,
3221 and the house won't be able to be seen from the street, it's a well wooded lot, and large
3222 enough to sustain a 3,800-square-foot house. So I want to ask for a variance for a 3,800-
3223 square-foot house. And I think we've submitted some pictures of the house and some
3224 drawings?
3225
3226 Ms. Harris - Yes, we do.
3227
3228 Mr. Blankinship - And since we did have a house shown on the plot plan and
3229 also the location has moved somewhat because of the septic system design.
3230
3231 Mr. Coston - Yes, sir, yes.
3232
3233 Ms. Harris - Right.
3234
3235 Mr. Blankinship - Since it was within the one month, as we had discussed
3236 previously, there is the opportunity of a rehearing in a case like that. We felt the best way
3237 to get this back in front of you was through that reconsideration process so that you could
3238 consider just whether to change condition number two of that approval to allow the
3239 different house design and the different house location.
3240
3241 Mr. Green - And then you say you sold it? You sold the property?
3242
3243 Mr. Coston - I have not yet. I have not yet, yes. That's part of the conditions,
3244 that I get this variance for him.
3245
3246 Mr. Green - So why wouldn't he come and ask for this?

3247

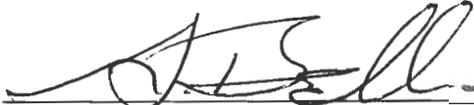
3248 Mr. Coston - He was going to be here today, but he's got some family
3249 issues that he had to work with this morning.
3250
3251 Mr. Green - He submitted a brand new request.
3252
3253 Mr. Coston - Well when I talked with him this morning, he had planned on
3254 being here, but he couldn't make it today.
3255
3256 Ms. Harris - This letter comes from both Mr. Coston and Mr. Sims, and so
3257 the person who could not be with us today is who?
3258
3259 Mr. Coston - Mr. Sims.
3260
3261 Ms. Harris - Mr. Sims, okay.
3262
3263 Mr. Coston - The proposed buyer of the lot.
3264
3265 Ms. Harris - Right. And we have a rule that says any substantial changes
3266 or addition to the design or location of the improvements requires a new variance.
3267
3268 Mr. Green - Right.
3269
3270 Ms. Harris - But this is not a substantial change, because there's a reason
3271 for the house location to be moved, because it's closer to the drainfield location. So this
3272 is why we're hearing it today a month after we gave the approval for this.
3273
3274 Mr. Green - Well we gave the approval for another -- a different house.
3275 This is for another house.
3276
3277 Mr. Reid - Yes, a smaller.
3278
3279 Mr. Green - This is a different house.
3280
3281 Mr. Johnson - What's the square footage of the previous house?
3282
3283 Ms. Harris - He intended to build a 3-bedroom, 1.5-bathroom home at the
3284 time of the original application. Now he intends to build a 4-bedroom -
3285
3286 Mr. Green - He's not intending to build it. Someone else is.
3287
3288 Mr. Coston - Yes, someone else is, a buyer.
3289
3290 Ms. Harris - Right. The intent is to build a four-bedroom, approximately
3291 3,800-square-foot home. And the letter is signed by both Mr. Coston and Mr. Sims.
3292

3293 Mr. Green - I would like the individual who's going to build a house to come
 3294 before us and commit and show us the plans.
 3295
 3296 Mr. Blankinship - If the board votes to reconsider it will go on next month's
 3297 agenda.
 3298
 3299 Mr. Green - Right.
 3300
 3301 Mr. Blankinship - And then we would expect him to come make a presentation.
 3302
 3303 Mr. Green - All right.
 3304
 3305 Ms. Harris - Will that be a new variance in which they have to pay for it?
 3306
 3307 Mr. Blankinship - No. The way it's styled now it would just be a reconsideration
 3308 of the last month's case.
 3309
 3310 Ms. Harris - Okay, question.
 3311
 3312 Mr. Johnson - Madam Chair, I'd like to know the square footage of the house
 3313 that was to have been built.
 3314
 3315 Mr. Blankinship - It was 1,400.
 3316
 3317 Mr. Johnson - Fourteen.
 3318
 3319 Mr. Green - So he's doubling it, tripling it.
 3320
 3321 Ms. Harris - So we can put it on the agenda for reconsideration for the next
 3322 meeting if the board so desires.
 3323
 3324 Mr. Green - I so desire.
 3325
 3326 Ms. Harris - Okay, that's your motion?
 3327
 3328 Mr. Green - Yes.
 3329
 3330 Ms. Harris - Is there a second?
 3331
 3332 Mr. Reid - Second.
 3333
 3334 Ms. Harris - Okay. Any questions on -- well, it's been moved and properly
 3335 seconded that we bring this case before the board for reconsideration at the next meeting.
 3336 Are there any questions on the motion? All in favor -- question?
 3337
 3338 Mr. Green - I was just concerned about the size differences.

3339
3340 Ms. Harris - Yes, that will be addressed at the next meeting.
3341
3342 Mr. Johnson - Right, yes.
3343
3344 Ms. Harris - All in favor of this question.
3345
3346 Mr. Coston - And you would like Mr. Sims to be here at that meeting.
3347
3348 Ms. Harris - Let's finish the motion. All in favor of this motion say aye.
3349 Opposed. The ayes have it. Yes, Mr. Coston, if he can possibly be here, that would help.
3350
3351 Mr. Coston - Thank you.
3352
3353 Ms. Harris - Okay.
3354
3355 Mr. Coston - Yes, ma'am.
3356
3357 Ms. Harris - And we thank you for coming in.
3358
3359 Mr. Coston - Thank you for consideration.
3360
3361 Mr. Green - If he's going to be the owner by that time, I would like to see
3362 him.
3363
3364 Mr. Coston - He's not going to buy it if he can't build his 3,800-square-foot
3365 house, so I've got to get the variance for a 3,800-square-foot house.
3366
3367 Ms. Harris - Before he buys. Before he buys.
3368
3369 Mr. Coston - Yes. My problem is if he doesn't buy it from me then I'm going
3370 back to the 1,400-square-foot house, I guess I'll have to do another --
3371
3372 Ms. Harris - Because you currently own the property.
3373
3374 Mr. Coston - Yes, ma'am. I currently own it. I live across the street.
3375
3376 Ms. Harris - Okay.
3377
3378 Mr. Green - You have a contract to buy?
3379
3380 Mr. Coston - Yes. I do. Yes, sir. We do have a signed contract. But it's the
3381 contingency on me getting the variance for him.
3382
3383 Ms. Harris - Okay, so we've got to get the variance approved or
3384 disapproved. Is there any more business? Thank you for coming in.

85
3386 Mr. Coston - Thank you.
3387
3388 Ms. Harris - Okay. Is there any more business before this body today?
3389
3390 Mr. Green - Yes, when is your last meeting? It's not today is it?
3391
3392 Ms. Harris - When is what?
3393
3394 Mr. Blankinship - Your last meeting.
3395
3396 Ms. Harris - Next month.
3397
3398 Mr. Bell - Next month, okay.
3399
3400 Ms. Harris - If there is no more business before this body. Oh, I need to
3401 mention this, Mr. Pollard, my successor will be Terrell Pollard. He did come in briefly to
3402 see what we were doing today and hopefully, you know, he'll come back so I can introduce
3403 him to you properly.
3404
3405 Okay, if there's no more business before this group. **The meeting is adjourned.**

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Mr. Gentry Bell, Vice-Chair



Mr. Benjamin W. Blankinship, Secretary